

CINCINNATI OSHA Diary Sheet

Establishment Name		Headwaters Plant Services, Inc.	
UPA ACTIVITY#	INSPECTION REPORT#	EISA	CSHO ID
1092990	1148200	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	7C [REDACTED]
DATE	ACTION		INITIALS
9-21-16	Ready to issue.		DEV
9-21-16	MAIL AND Final citations		7C [REDACTED]
9-27-16	Spoke w/ father of victim told him once he rec'd green card he will rec the copy of citation.		SHG
9-28-16	DRAFT copy of NOK Given to AAD for Review		[REDACTED]
9-29-16	MAIL I.C. ltr.		7C [REDACTED]
9-30-16	MAIL 2nd LTR TO NOK w/ citation		[REDACTED]
10-6-16	ENTER GREEN CARD		[REDACTED]
10-11-16	AD Case Held I.C. + Rec'd Abatement D/S to Close.		7C [REDACTED]
10-20-16	ENTER S/A AND summary report in file.		[REDACTED]
OSHA Employee ID #7c			

DUE DATE: _____
DUE DATE: _____

CINCINNATI OSHA Diary Sheet CSHO ID EX. #7c

Establishment Name Headwaters Plant Services, INC.

UPA ACTIVITY#	INSPECTION REPORT#	EISA <u>FAT</u>	CSHO ID
<u>1092748</u> <u>1092990</u>	<u>1148200</u>	YES _____ NO <u>✓</u>	<u>7C</u>

DATE	ACTION	INITIALS
<u>5-18-16</u>	<u>Open Inspection Per AAD Directive</u>	<u>7C</u>
<u>5-18-16</u>	<u>Entered UPA and/or Inspection into OIS</u>	<u>7C</u>
	<u>Inspection Report provided to AAD</u> <u>Yes</u> or No	<u>7C</u>
<u>5-19-16</u>	<u>Original UPA deleted as was not referral but Fatcat</u> <u>changed info in OSHA 1 & 170. Added 36</u> <u>Next of Kin Letters mailed to father & also fiancé</u> <u>Crystal emailed the NOK letter to designers on cont</u> <u>sheet.</u>	<u>DEU</u>
<u>5/24/2016</u>	<u>AD Montgomery called and left v.m.</u> <u>For N.O.K. <u>7C</u></u> <u>GAVE Condolences & provided contact</u> <u>info.</u>	<u>NOK Ex. 7c</u>
<u>5-25-16</u>	<u>Employee Interviews</u>	<u>7C</u>
<u>8-1-16</u>	<u>Emailed employer/attorney on OSHA Penalty</u> <u>changes</u>	<u>7C</u>
<u>8-4-16</u>	<u>Turned Case File Into AAD For Review</u>	<u>7C</u>
<u>8-5-16</u>	<u>Sent S(a)1 information to S(a)(1) Group for review</u> <u>Emailed final OSHA 1, 170 and 36 to Required</u> <u>emails listed on Fatality Checklist</u>	<u>DEU</u>
<u>9-8-16</u>	<u>Sent Fatality memo to Region for approval.</u>	<u>DEU</u>
<u>9-15-16</u>	<u>Fatality Memo Appeared.</u>	<u>DEU</u>

DUE DATE: _____
DUE DATE: _____

CINCINNATI OSHA Diary Sheet CSHO ID #Ex. 7c

Establishment Name

Headwaters Plant Services, Inc

UPA ACTIVITY#

1092990

INSPECTION REPORT#

1148200

EISA

YES NO ☒

CSHO ID

7C

DATE

ACTION

INITIALS

~~Open Inspection~~

~~Entered UPA and/or Inspection into OIS~~

~~Inspection Report provided to AAD Yes or No~~

9-6-16

Rec'd Final Notification From Region on changes to AAD & Memo.

9-7-16

CSHO Give AAD Draft Copy of MEMO & IB TO Review

9-15-16

RCVD Approved Fatality Memo From Region

9-20-16

CSHO Held Closing Conf with Employer & Attorney.

9-21-16

Turned Case File Into AAD For Review

U.S. Department of Labor

Occupational Safety and Health Administration
Cincinnati Area Office
36 Triangle Park Drive
Cincinnati, Ohio 45246-3411
(513) 841-4132



OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

In the Matter of: Headwaters Plant Services, Inc.
OSHA No. (s): 1148200

INFORMAL SETTLEMENT AGREEMENT

The undersigned Employer and the undersigned Occupational Safety and Health Administration (OSHA), in settlement of the above citation(s) and penalties, which were issued on September 12, 2016, hereby agree as follows:

1. The Employer agrees to correct the violations as cited in the above citations or as amended below and to provide this office with verification of abatement in accordance with 29 CFR 1903.19.
2. The Employer agrees to pay the total penalty of \$4500.00 by December 11, 2016 or in accordance with the below payment plan. If the penalty is not paid under the terms of this agreement, the original total proposed penalty will become due and payable immediately plus any administrative fees, interest, and penalties incurred thereafter.

See Attachment A for payment instruction.

This is your notification of payment due. No other statement or bill will be sent.

3. The Employer and OSHA agree that the following citations and penalties, if any, are being amended as shown. Citations and penalties not referenced below remain unchanged:

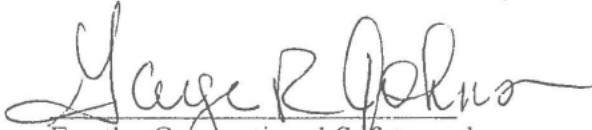
Citation 1, Item 1, will remain unchanged. The total penalty will be reduced to \$4500.00.

4. The Employer, by signing this agreement, hereby waives its rights to contest the above citation(s) and penalties, as referenced in paragraph 3 of this Agreement.
5. Each party agrees to bear its own fees and expenses incurred in connection with any stage of this proceeding.
6. The Employer agrees to immediately post a copy of this Settlement Agreement in a prominent place at or near the location of the violation(s) referred to in paragraph 3 above. This Settlement Agreement must remain posted until the violations cited have been corrected, or for 3 working days (excluding weekends and Federal Holidays), whichever is longer.
7. The Employer agrees to continue to comply with the applicable provisions of the Occupational Safety and Health Act of 1970, and the applicable safety and health standards promulgated to the Act.
8. Except for these proceedings, and matters arising out of these proceedings, and any other subsequent OSHA proceedings between the parties, none of the foregoing agreements, statements, findings and actions taken by the Employer shall be deemed an admission by the Employer of the allegations contained within the Citations and Notifications of Penalty.

From:513 381 9206

10/19/16 16:22

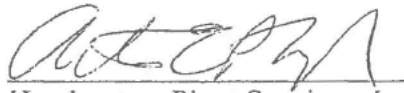
#296 P.004/004



For the Occupational Safety and
Health Administration
Ken E. Montgomery
Area Director



10/19/16
Date



Headwaters Plant Services, Inc.
Arthur E. Phelps, Jr. - Atty for
Headwaters Plant Services, Inc.

10/19/16
Date

U.S. Department of Labor

Occupational Safety and Health Administration
Cincinnati Area Office
36 Triangle Park Drive
Cincinnati, Ohio 45246-3411
(513) 841-4132



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For the Occupational Safety and
Health Administration
Ken E. Montgomery
Area Director

Date

Headwaters Plant Services, Inc.

Date

NOTICE TO EMPLOYEES

The law gives you or your representative the opportunity to object to any abatement date set for a violation if you believe the date to be unreasonable. Any contest to the abatement dates of the citations amended in paragraph 3 of this Settlement Agreement must be mailed to the U. S. Department of Labor Area office at:

U.S. Department of Labor-OSHA
36 Triangle Park Drive
Cincinnati, Ohio 45246
Phone: 513-841-4132

Within 15 working days (excluding weekends and Federal Holidays) of the receipt by the Employer of this Settlement Agreement, you or your representative also have the right to object to any of the abatement dates set for in violations which were not amended, provided that the objection is mailed to the office shown above within the 15 working day period established by the original citation.

Attachment A

Payment Instruction Addendum

To avoid additional charges, please remit payment promptly to this Area Office for the total amount of the uncontested penalties. Make your check or money order payable to: "DOL-OSHA". Please indicate OSHA's Inspection Number on the remittance. You can also make your payment electronically on www.pay.gov by searching for the public forms by form name – **OSHA Penalty Payment Form**.

The direct link is
<https://www.pay.gov/forms/formInstance.html?agencyFormId=53090334>.

You will be required to enter your inspection number when making the payment. Payments can be made by credit card or Automated Clearing House (ACH) using your banking information. Payments of \$50,000 or more require a Transaction ID, and also must be paid using ACH. If you require a Transaction ID, please contact the OSHA Debt Collection Team at (202) 693-2170.

OSHA does not agree to any restrictions or conditions or endorsements put on any check, money order, or electronic payment for less than the full amount due, and will cash the check or money order as if these restrictions or conditions do not exist.

If you have additional questions, please contact our office at 513-841-4132.



Case Summary Report

CSHO ID EX. 7C

Inspection Number: 1148200

Case Closed Date:

CSHO ID: 7C

Supervisor ID: B0513

Establishment Name: Headwaters Plant Services, Inc. Establishment DBA Name:

Establishment Information

Business Address:

10701 S. River Front

Suite 300

SOUTH JORDAN, UT 84095

USA

Mailing Address:

10701 S. River Front

Suite 300

SOUTH JORDAN, UT 84095

USA

Site Address:

11021 Brower Rd

NORTH BEND, OH 45052

USA

Inspection Information

Scope of Inspection: Partial

Inspection Category: Safety

Inspection Type(s): Fatality/Catastrophe

Case Milestone Dates:

Milestone	Date
Opening Conference Date	05/18/2016
Closing Conference Date	05/18/2016
Citation Issued Date	09/21/2016
Informal Conference Date	10/05/2016
Final Order Date	10/19/2016

Inspection Emphasis Programs

Primary Emphasis Program:

National Emphasis Programs:

Local Emphasis Programs:

Strategic Plan Activity

Federal Strategic Initiative Program: COMMERCIAL CONSTR, STRUCK-BY

Additional Codes

Type	ID	Value	Description
N	10	IMMLANG-N	All FAT/CAT investigations & related O

Union: N

SVEP: N

Sampling: N

Related Activities

Related Activity

Activity Number	Activity Type	Satisfied	Estab Name	Status
1092990	FAT/CAT	Safety	Headwaters Plant Services, Inc	Open

Multi-Employer Inspections

Inspection Number	Estab Name
1148227	DYNEGY MIAMI FORT, LLC

Violation Information

Cita ID	Citation Type	Standard	Pen	Issuance Date	Receipt Date	Final Order Date	Last Date To Contest	Abatement Date	Abatement Date	Date Abated	C	Stat	Abatement Status
1-1	Serious	OSH ACT of 1	4500	09/21/2016	09/27/2016	1 - 10/19/2016	10/19/2016	10/11/2016	Yes	09/12/2016	No	Final	Abatement Co

Penalty Information

Penalty Assessed(\$): 4500

Total Paid(\$): 0

Other Assessed(\$): 0

Waived(\$): 0

Interest and Fee(\$): 0

Refund(\$): 0

Total Assessed(\$): 4500

Total Balance Due(\$): 4500

Debt Collection:

Date Referred:

Amount Referred: 0

Payment Summary

Payment	Payment	Payment Re	Unhonored	Payment
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Report No	Type	Date	Date	Amount
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Montgomery, Ken - OSHA

From: Montgomery, Ken - OSHA
Sent: Wednesday, October 12, 2016 8:29 AM
To: 'APhelps@Rendings.com'
Cc: Wallace, Debbie - OSHA; Johnson, Gaye - OSHA
Subject: Headwaters

Good morning Mr. Phelps,

I just received the approval to allow the exculpatory language. This morning will be my last day in the office. At this point forward your point of contact will be Ms. Gaye Johnson. Thank you and I appreciate all of your hard work.

Ken E. Montgomery – Area Director Cincinnati Federal OSHA
36 Triangle Park Dr.
Cincinnati, Ohio 45246
513-841-4132
Montgomery.ken@dol.gov

TRANSMISSION VERIFICATION REPORT

TIME : 10/19/2016 17:24
NAME : OSHA
FAX : 5138414114
TEL : 5138414132
SER.# : L6J312457

DATE, TIME
FAX NO./NAME
DURATION
PAGE(S)
RESULT
MODE

10/19 17:22
93819206
00:01:23
04
OK
STANDARD

RECEIVED 10/19/2016 16:36 5138414114

USHA

From: 513 381 9206

10/19/2016 16:22

#296 P.001/004

WWW.RENDIGS.COM

Rendigs
ATTORNEYS AT LAW

Rendigs, Fry, Hely & Dennis, LLP
600 Vine Street, Ste. 2650
Cincinnati, OH 45202

FAX

Date: October 19, 2016 Total # of Pages: 4 including cover page
From: Arthur E. Phelps, Jr. RFKD Ref. #: 11803-3
Debbie Wallace
Assistant Area Director
To: Cincinnati Area Office Fax Number: 513-841-4114

RE: Headwaters Plant Services, Inc.
OSHA No. 1148200

COMMENTS

Please see the attached Informal Settlement Agreement.

Returned fully executed settlement.

Gaye

Rendigs

LAW

Rendigs, Fry, Day & Gandy, LLP
400 Vine Street, 5th Floor
Cincinnati, OH 45202

FAX

Date: October 19, 2016 Total # of Pages: 4 including cover page

From: Arthur E. Phelps, Jr. RFKD Ref. #: 11803-3
Debbie Wallace
Assistant Area Director

To: Cincinnati Area Office Fax Number: 513-841-4114

RE: Headwaters Plant Services, Inc.
OSHA No. 1148200

COMMENTS

Please see the attached Informal Settlement Agreement.

Returned fully executed settlement.
Gage
10/19/16

Please telephone Debbie S. Sizemore at 513 381 9241 if there are any problems with this transmission.

The information contained in this facsimile message is attorney-client privileged, confidential in nature, and intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution, or copying is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone, and return the original message to us at the above address via mail. Thank you for your cooperation.

Cincinnati | Columbus | Dayton | Denver | Louisville

11803\00003\1555322

INFORMAL CONFERENCE SHEET

Copy of Inspection History Yes _____ No X
Mailed IC Abatement Letter Yes _____ No X

CSHO ID EX. 7C

Company Name: Headwaters Plant Services, Inc.

Date Meeting Held: 10/11/16 Time: 9:00 a.m.

Inspection No. 1148200

CSHO ID: 7C

Date Citation(s) Rec'd: 9-27-16 End of the 15-day contest period: 10-19-16

Please Print Your Name and Title Below:

Representing the Employer:

Abatement:

Name: Ted Phelps / Mike Chapman Rendigs, Fry, Kieley & Dennis LLP	Citation / Item 1: Abated SES Citation Item : CERT OF ABATE..
Title: Attorneys for Headwaters	Citation Item :
Name: Dale Johnson	Citation Item :
Title: Dir. Operations Headwaters	Citation Item :
Name: John Miller	Citation Item :
Title: VP Safety & Ops Headwaters	Citation Item :
	Citation Item :

Representing the Employees

Name:	Name
Title:	Title:

Representing DOL-OSHA:

Name: KEN MONTGOMERY	Name:
Title: AD	Title:

Contest Period Explained: YES: 10/19/2016 NO: _____
Recommendations Reviewed: YES: _____ NO: _____

Chris Hughes

Regional Safety Mgr.

Items discussed and comments:

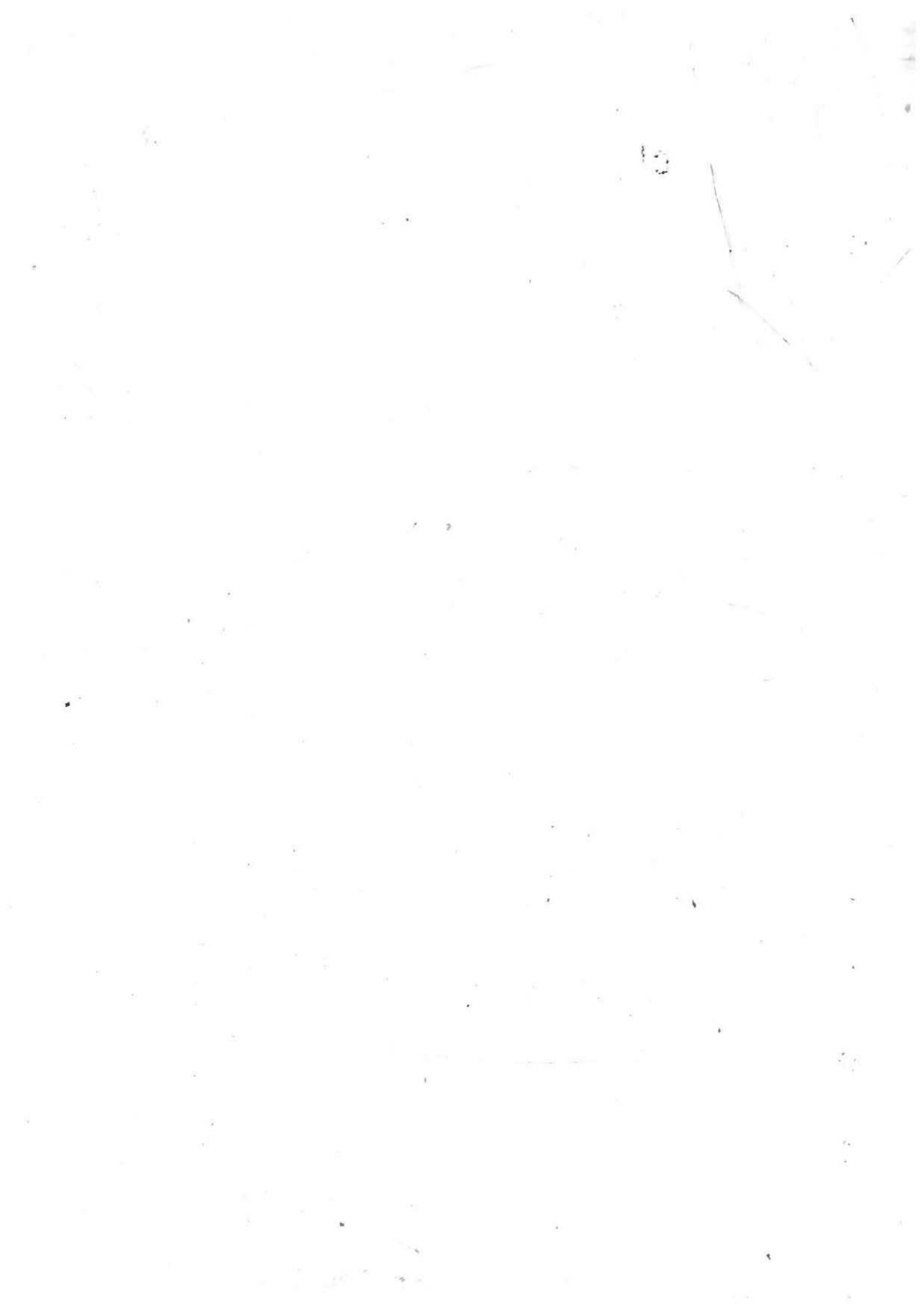
- 7C Got the JHA - We think he was trained.
- Cables were available @ Spurlock and could have been brought over.
- We think we have Employee Misconduct.
- C has changed; - JHA been beefed up Sept. 2016
 - Policy in place & Contact Director.
 - Create a specific Training module.
- EE was working in Michigan @ the time of the Training.
- I.C. Had extensive conversation about Employee Misconduct.
- Area Manager Does Site insp. Quarterly.
- Keith Carr was site mgr for Dolly. based Portsmouth. We was only Temp on this site 2-3 wks.

5(a)(1) - \$6000 \$4500
OR Amended to
20(b)(2) - \$6000 \$4500

Ask For Exculpatory language.

- Spurlock has 3B EE's

Y - Amendment: Completed + in effect as of September - Corp wide



CERTIFICATION OF CORRECTIVE ACTION WORKSHEET

Inspection Number: 1148200

Company Name: Headwaters Plant Services, Inc.
Inspection Site: 11021 Brower Rd, North Bend, OH 45052
Issuance Date: 09/21/2016

List the specific method of correction for each item on this citation in this package that does not read "Corrected During Inspection" and return to: **U.S. Department of Labor – Occupational Safety and Health Administration, 36 Triangle Park Drive, Cincinnati, OH 45246**

Citation Number 1 and Item Number 1 was corrected on 6/15/16 & 9/12/16
By (Method of Abatement): See attached

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____


Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

I certify that the information contained in this document is accurate and that the affected employees and their representatives have been informed of the abatement.


Signature
John Miller
Typed or Printed Name

10/11/16
Date
UP safety and operations
Title

NOTE: 29 USC 666(g) whoever knowingly makes any false statements, representation or certification in any application, record, plan or other documents filed or required to be maintained pursuant to the Act shall, upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment of not more than 6 months or both

POSTING: A copy of completed Corrective Action Worksheet should be posted for employee review

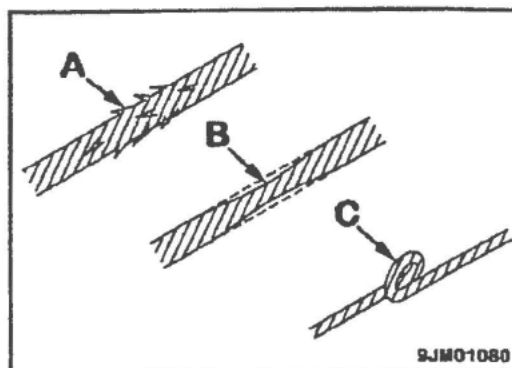
JHA company objects to release 5 pages

Towing the Machine

WARNING

Serious injury or death could result if a disabled machine is towed incorrectly or if there is a mistake in the selection or inspection of the wire rope.

- Always check that the wire rope used for towing has ample strength for the weight of the machine being towed.
- Never use a wire rope which has cut strands (A), reduced diameter (B), or kinks (C). There is danger that the rope may break during the towing operation.
- Always wear leather gloves when handling wire rope.
- Never tow a machine on a slope.
- During the towing operation, never stand between the towing machine and the machine being towed.
- Operate the machine slowly and be careful not to apply any sudden load to the wire rope.



Remark

The permissible pulling power of this machine is as follows.

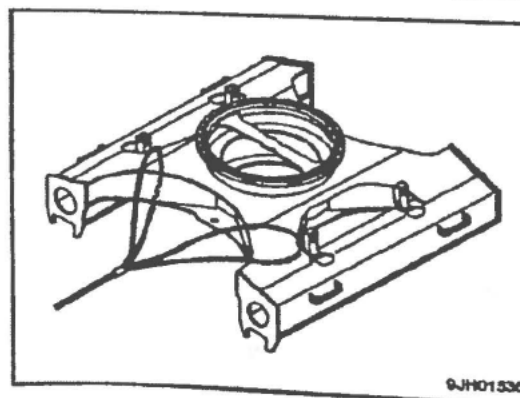
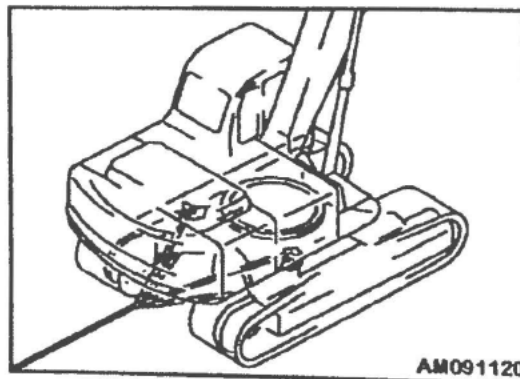
PC200: 142,000 N (14,600 kgf)

PC220: 168,000 N (17,100 kgf)

Always carry out towing operations within the maximum towing capacity.

- If the machine sinks in mud and cannot get out under its own power, or if the drawbar pull of the excavator is being used to tow a heavy object, use a wire rope as shown in the diagram on the right.
- Place pieces of wood between wire ropes and body to prevent damage to ropes and body.
- Hold the wire rope level and direct it straight to the track frame.
- When towing a machine, travel at a speed of less than 1 km/h for a distance of only a few meters to a place that is suitable for carrying out repairs.

This is for use only in emergencies.



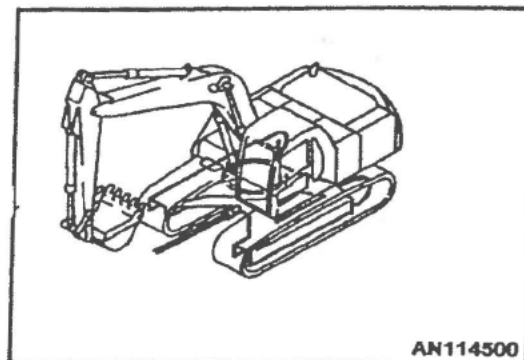
Lightweight Towing Hole

WARNING

- Always use shackles.
- Set so that the wire rope is horizontal and facing directly to the front from the track frame.
- Move the machine slowly. Do not apply a sudden load to the wire rope.

There is a hole in the track frame to fit the shackle when towing light objects.

Permissible towing load:PC200 Max. 58,800 N (6,000 kgf)
PC220 Max. 78,400 N (8,000 kgf)



AN114500

Severe Job Condition

When carrying out digging operations in water, if the work equipment mounting pin goes into the water, carry out greasing every time the operation is carried out.

For heavy-duty operations and deep digging, carry out greasing of the work equipment mounting pins every time before operation.

After greasing, operate the boom, arm and bucket several times, then grease again.

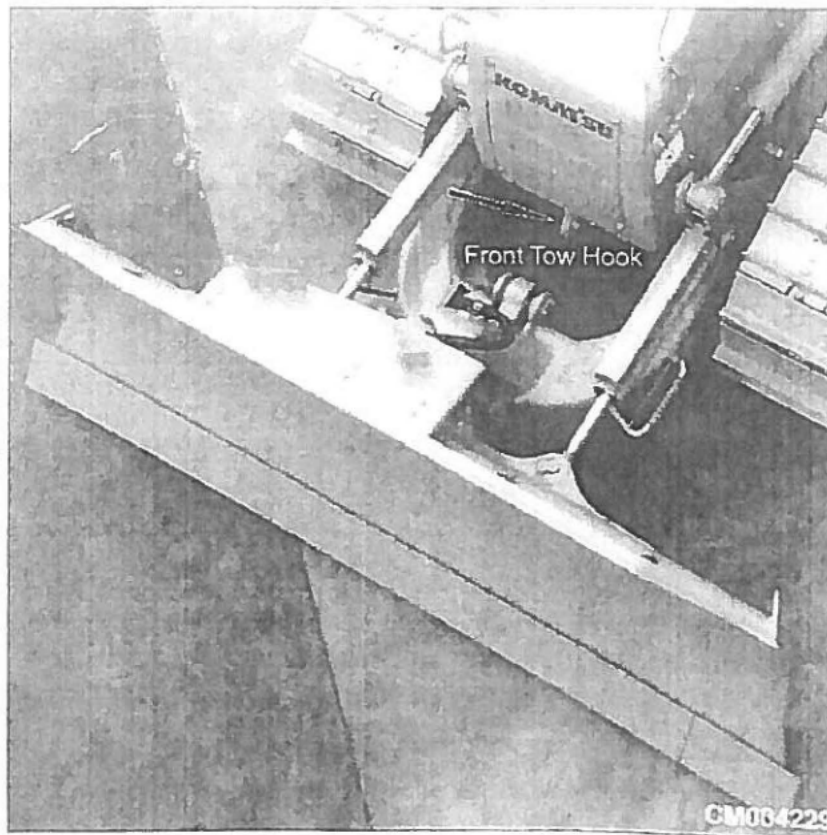
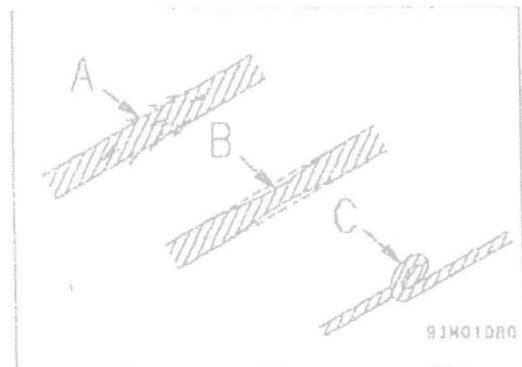
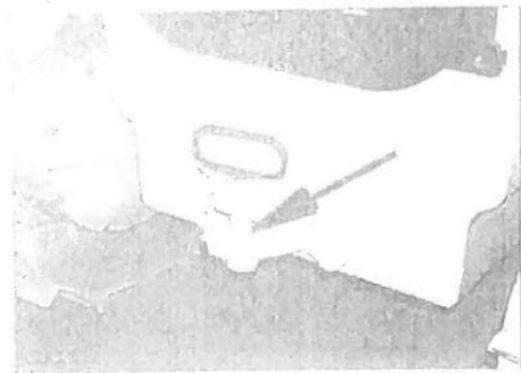
SAFETY

TOWING THE MACHINE

Serious injury or death can result if the machine is towed incorrectly or if there is a failure of the towing equipment or wire rope.

For towing method, see "OPERATING INSTRUCTIONS" under "SAFETY SITES" on page 2-122.

- Always wear leather gloves when handling wire rope.
- Connect a wire rope to the hitch, making sure the arrows in the diagrams point to the right.
- During the towing operation, never stand between the towing machine and the machine being towed.
- Never tow a machine on a slope.
- Never pull the towing equipment up or insert a pedestal.
- Never use a wire rope which has cut strands (A), reduced diameter (B), or kinks (C). There is danger that the rope may break during the towing operation.
- If the engine stops or the oil pressure in the brake circuit lowers, because of a trouble in the brake valve solenoid, the brake applies and the machine cannot move. To move the machine in this case, the oil pressure in the brake circuit must be raised to the specified level with a special device. Ask your Komatsu distributor



OPERATION

GENERAL TROUBLESHOOTING

AFTER RUNNING OUT OF FUEL

When restarting the machine after running out of fuel, fill with fuel and bleed the air from the fuel system before starting. For details of bleeding the air, see "REPLACE PRE AND MAIN FUEL FILTER CARTRIDGES" on page 3-68.

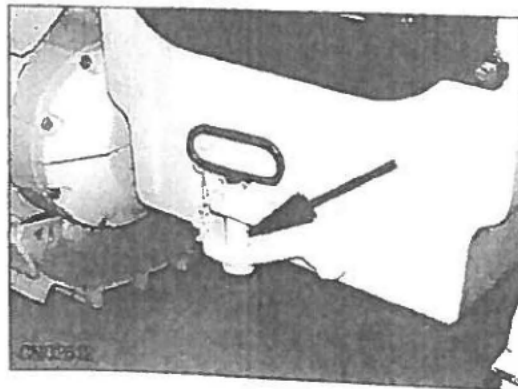
TOWING THE MACHINE

WARNING

- If the engine will not start, place blocks under the tracks to prevent the machine from moving, then release the brakes. If blocks are not put under the tracks, the machine may suddenly move.
- Be sure to use wire rope sufficiently strong enough for the towing weight.
- When using the towing hook, be sure to use a shackle.
- Set the wire rope horizontally and align it with the track frame.
- Tow the machine slowly.
- When returning a towed machine to the job site, first check to be sure the necessary repairs or adjustments have been made.

For details of the method of towing, contact your Komatsu distributor.

- With this machine, if the engine stops or there is a problem in the hydraulic system and the oil pressure in the brake circuit drops, the brake is actuated to prevent the machine from moving. To move the machine, it is necessary to use a special device to set the oil pressure in the brake circuit to above the specified pressure. Contact your Komatsu distributor.
- Moving a machine by towing is only used to move it to a place where it is possible to carry out inspection and maintenance. It is not intended for moving the machine long distances. Do not use this method for towing the machine for long distances.
- Before towing, check to be sure tow rope or bar are in good condition, and that they have ample strength for the towing operation. If the machine being towed may get stuck in mud or may have to be towed uphill, the tow rope or bar must be of a strength of at least 1.5 times greater than the weight of the machine being towed.
- If it is impossible to operate the steering and brakes of the machine being towed, do not let anyone ride on the machine.
- To protect the operator if the towing rope or bar should break, fit a shield to the machine being towed.
- When towing a machine, travel slowly. If the machine is suddenly pulled, the towing rope may break. Before starting to move the towed machine, remove any slack in the rope, and keep the rope taut during the towing operation.
- Keep the angle of the towing line to the minimum. Operate the machine so the angle does not become greater than 30° from the straight line.
- If the machine gets stuck in the mud or a heavy thing needs to be towed, install a towing wire rope to the draw bar pin.

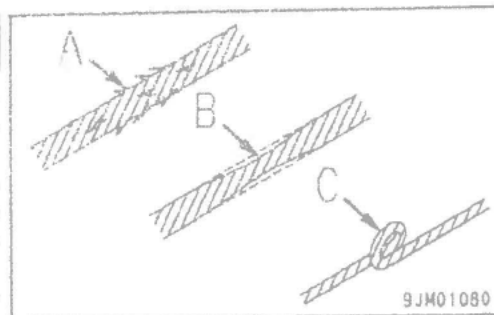


TOWING MACHINE (D65-000-146-K-00-A)



Serious injury or death could result if a disabled machine is towed incorrectly or if there is a mistake in the selection or inspection of the wire rope.

- If the engine does not start, put blocks under the track to prevent the machine from moving, then release the brake. If blocks are not used, there is danger that the machine may move suddenly.
- Always check that the wire rope used for towing has ample strength for the weight of the machine being towed.
- Never use the wire rope which has cut strands (A), reduced diameter (B), or kinks (C). There is a danger that the rope may break during the towing operation.
- Always wear leather gloves when handling the wire rope.
- Never tow a machine on a slope.
- During the towing operation, never stand between the towing machine and the machine being towed.
- Operate the machine slowly and be careful not to apply any sudden load to the wire rope.



NOTICE

The allowable maximum towing capacity for this machine is 140,000 N {14,275 kg}.

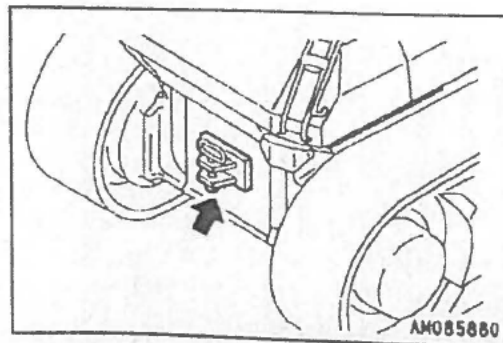
Always carry out towing operations within the maximum towing capacity.

For details of the method of towing, please contact your Komatsu distributor.

- If the engine stops or the oil pressure in the brake circuit lowers because of a trouble in the hydraulic system, the brake works and the machine cannot move. To move the machine in this case, the oil pressure in the brake circuit must be heightened to the specified level with a special device. Contact your Komatsu distributor.
- Moving a machine by towing is only used to move it to a place where it is possible to carry out inspection and maintenance. It is not intended for moving the machine long distances. Do not use this method for towing the machine for long distances.
- If it is impossible to operate the steering and brakes of the machine being towed, do not let anyone ride on the machine.
- Keep the angle of the towing line to the minimum. Operate the machine so that the angle does not become greater than 30° from the straight line.

If the machine gets stuck in the mud or a heavy thing needs to be towed, install a towing wire rope to the draw bar pin.

- Connect a wire rope to the part indicated with the arrow in the figure at right.



065

SAFETY

PRECAUTIONS FOR OPERATION

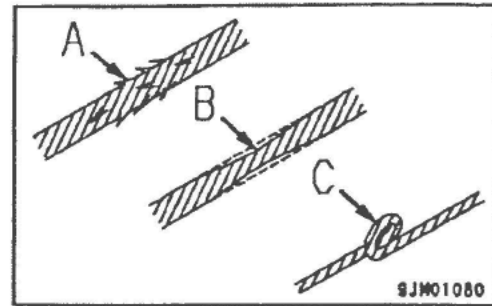
TOWING (ALL-0000-001-K-15-A)

SAFETY RULES FOR TOWING (D65-0000-147-K-00-A)

Always use the correct towing equipment and towing method. Any mistake in the selection of the wire rope or towing bar or in the method of towing a disabled machine may lead to serious personal injury or death.

For towing, see "TOWING MACHINE (PAGE 3-210)".

- Always confirm that the wire rope or drawbar used for towing has ample strength for the weight of the machine being towed.
- Never use a wire rope which has cut strands (A), reduced diameter (B), or kinks (C). There is danger that the rope may break during the towing operation.
- Always wear leather gloves when handling wire rope.
- Never tow a machine on a slope.
- During the towing operation, never stand between the towing machine and the machine being towed.



WA500

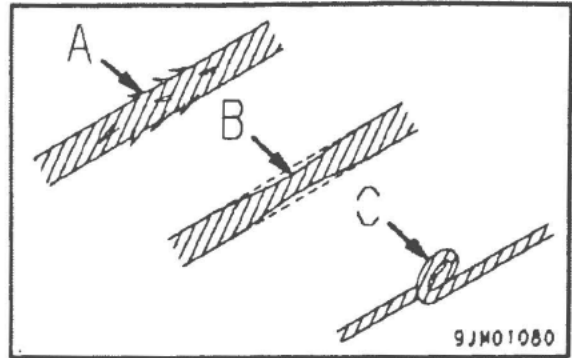
TOWING (ALL-0000-001-K-15-A)

SAFETY RULES FOR TOWING (WA500-0000-147-K-00-A)

Always use the correct towing equipment and towing method. Any mistake in the selection of the wire rope or towing bar or in the method of towing a disabled machine may lead to serious personal injury or death.

For towing, see "TOWING MACHINE (PAGE 3-261)".

- Always confirm that the wire rope or drawbar used for towing has ample strength for the weight of the machine being towed.
- Never use the wire rope which has cut strands (A), reduced diameter (B), or kinks (C). There is a danger that the rope may break during the towing operation.
- Always wear leather gloves when handling the wire rope.
- Never tow a machine on a slope.
- During the towing operation, never stand between the towing machine and the machine being towed.



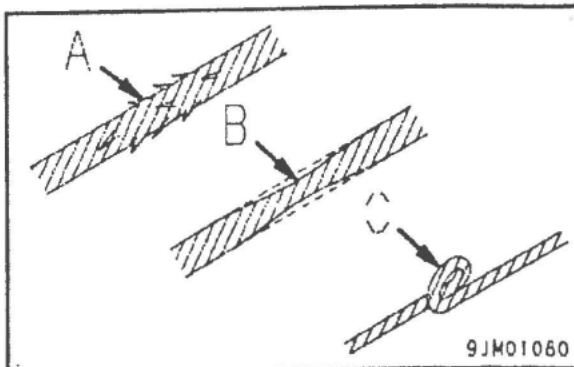
TOWING MACHINE (WA500-0000-146-K-00-A)

WA500

⚠ WARNING

Any mistake in the selection of the wire rope or towing bar or in the method of towing, may lead to serious personal injury or death.

- Always check that the wire rope used for towing has ample strength for the weight of the machine being towed.
- Never use the wire rope which has cut strands (A), reduced diameter (B), or kinks (C). There is a danger that the rope may break during the towing operation.
- Always wear leather gloves when handling the wire rope.
- Never tow a machine on a slope.
- During the towing operation, never stand between the towing machine and the machine being towed.
- Operate the machine slowly and be careful not to apply any sudden load to the wire rope.
- If there is a failure in the brake system, the brakes will not work, so be extremely careful when towing.



NOTICE

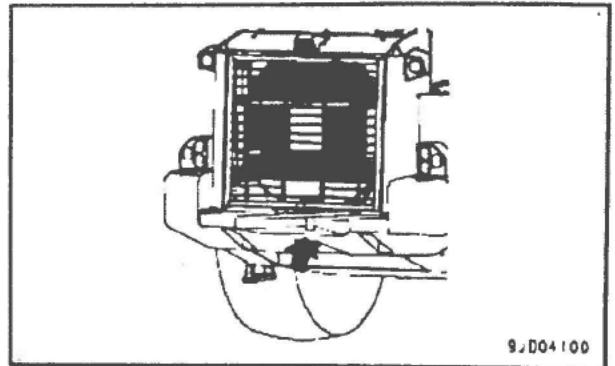
- Tow the machine only for a short distances, such as to a place for inspection and maintenance. Do not tow the machine for long distances.
- For details of the allowable towing capacity for this machine, see "SPECIFICATIONS (PAGE 5-2)".
- For details of the procedure for towing a disabled machine, consult your Komatsu distributor.

This machine must not be towed except in emergencies. However, if it is avoidable to tow the machine, take the following precautions.

- When releasing the brake, secure the machine with chocks. If the wheels are not chocked, the machine may move suddenly.
- When towing a machine, tow it at a low speed of less than 2 km/h {1.2 MPH}, and for a distance of a few meters to a place where repairs can be carried out. This method is applied only in emergencies. If the machine

must be moved long distances, use a transporter.

- If it is impossible to operate the steering and brakes of the machine being towed, do not let anyone ride on the machine.
- Keep the angle of the towing rope as small as possible. Keep the angle between the center lines of the two machines to within 30 degrees.
- Usually, use a towing machine of the same class as the machine being towed. Check that the towing machine and towed machine both have ample braking power, and rim pull to allow them to control both machines on slopes or on the tow road.
- When towing a machine downhill, it may be necessary to connect another machine to the rear of the towed machine in order to provide ample rim pull and braking power. The controllability of the machines can be secured by this method.
- Towing may be carried out under various differing conditions, so it is impossible to determine beforehand the requirements for towing. Towing on flat level roads will require the minimum rim pull, while towing on slopes or on uneven road surfaces will require the maximum rim pull.
- Connect a wire rope to the part indicated with the arrow in the drawing at right.





Health and Safety Standard - Towing / Pulling Stuck Equipment

Effective: June 15, 2016

company objects to release 2 pages

EXTRACTING STUCK EQUIPMENT SAFELY

presentation company objects to release 19 pages

U.S. Department of Labor

Occupational Safety and Health Administration

Cincinnati Area Office

36 Triangle Park Drive

Cincinnati, OH 45246

Phone: (513) 841-4132 Fax: (513) 841-4114

<http://www.osha.gov>



September 28, 2016

7C

NOK Ex. 7c

The OSHA inspection revealed the seat of Komatsu Bulldozer Mr. Jolly was operating during a towing operation of a Komatsu Excavator was struck by a shackle that was attached to a nylon sling that failed. The nylon slings used during the towing operation was used in a vertical manner and was manufactured to be used in a horizontal manner which resulted in the exceedance of the manufacturer's allowable capacity.

Enclosed is a copy of the citations and proposed penalties against Headwaters Plant Services, Inc. OSHA citations state the alleged violations of safety and health standards at the worksite.

We would like to emphasize that, under the Occupational Safety and Health Act, civil penalties that OSHA imposes are not based on the occurrence of a fatality. Instead, the gravity of the violation, which factors in severity of injury and probability of occurrence, is one consideration in penalty calculation. Penalties may be reduced from the maximum allowable by law based on the company's size and history of previous violations. In some cases, penalties may be reduced in exchange for a company's prompt correction of problems in order to protect other employees at the site and to resolve the hazards promptly.

Enclosed is a brief fact sheet that further explains OSHA's citation and penalty policy and should help in understanding the citations. We know that no amount of money or compensation can measure the loss you and your family have suffered, and that your lives have been changed forever because of this tragedy. I would like to express to you my deepest sympathy. If you have any questions about our inspection or any of the information enclosed, please contact me:

Ken E. Montgomery

USDOL/OSHA

Cincinnati Area Office Area Office

36 Triangle Park Drive

Cincinnati, OH 45246

Phone: (513) 841-4132

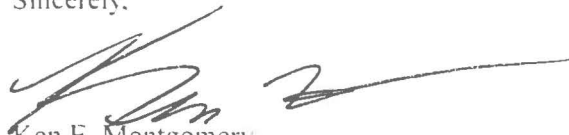
Fax: (513) 841-4114

E-Mail: OSHACincinnati@dol.gov

The Freedom of Information Act (FOIA) governs the release of information concerning accident inspections conducted by OSHA. The releasable portions of the file will be made available to you upon

written request. OSHA's policy is to waive fees for FOIA requests in these circumstances, subject to the requirements of 29 CFR Part 70.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ken E. Montgomery', with a long horizontal flourish extending to the right.

Ken E. Montgomery
Area Director

Enclosures

OSHA CITATIONS AND PENALTIES

OSHA proposes citations when a standard has been violated. OSHA citations state the specific safety and health standards the company is alleged to have violated. They note, both by number and name, the individual sections of OSHA standards that the employer allegedly failed to follow. (A complete listing of OSHA standards is available for review at the OSHA area office or can be accessed on the agency's website at www.osha.gov, under OSH ACT of 1970 Section (5)(a)(1))

Citations specify the location at the worksite where the violation occurred and the circumstances surrounding the violation. The Area Director of the local OSHA office that conducted the inspection signs and issues the citations. Citations must be issued within six months following identification of the violations. Even if they disagree with the findings, employers must post a copy of each citation at or near the place where an alleged violation occurred for three days or until the violation is abated, whichever is longer.

Citations identify required abatement dates (the dates by which the hazards must be corrected) and proposed penalties for each alleged violation. For violations that are easy to fix, immediate abatement may be appropriate. If an employer must purchase equipment or significantly modify the workplace, a longer period is permitted.

Violations are classified as either willful, serious, other-than-serious, or repeat. Violations are classified as willful if OSHA has evidence that the employer intentionally disregarded the requirements of the Occupational Safety and Health Act of 1970 (OSH Act) and/or was plainly indifferent to the safety of employees. Violations are identified as serious if there is substantial probability that death or serious physical harm could result and that the employer knew, or should have known, of the hazard. A violation that has a direct relationship to job safety and health, but probably would not cause death or serious physical harm, is classified as other-than-serious. Violations may also be characterized as repeat if OSHA has cited the company for a substantially similar hazard within the past five years.

Proposed penalties may range as high as \$124,709 for a willful or violation \$12,741 for a serious violation. These amounts were set into law by Congress on November 5, 2015. Other-than-serious violations, however, may or may not carry proposed penalties. The amount of each proposed citation can be adjusted based on the employers size, good faith on the part of the employer (those implementing the safety and health program), and inspection history.

Although OSHA proposes penalties as a result of violations, it does not actually have the authority to impose fines. That authority is granted by law to the Occupational Safety and Health Review Commission (OSHRC), an administrative review board that is completely separate from OSHA and the U.S. Department of Labor. Employers can contest (challenge) alleged violations, proposed penalties, or abatement dates before this board. If the employer decides to challenge any part of OSHA's findings, it must do so within 15 working days after the employer receives the citations.

Alternatively, employers may request a meeting with OSHA to discuss the issued citations and possibly to enter into an informal settlement of the case. This may involve reductions in penalties in exchange for promptly correcting violations. OSHA's primary concern remains prevention of injuries, illnesses, and deaths, rather than collection of funds. (All penalty monies go directly to the U.S. Treasury; they are not part of OSHA's budget, nor are they credited to the agency.)

If an employer acknowledges the violations and agrees to pay the proposed penalties, then the citations as issued or amended automatically become a final order of OSHRC. The employer pays the penalties and

the case is closed. The employer may also contest a part of a citation and pay part of the penalties assessed, or contest the entire case. Contested cases proceed through an administrative review process at the OSHRC. The employer or OSHA may further appeal the case in the appropriate U.S. Court of Appeals, if dissatisfied with the OSHRC's decision.

When an employer is charged with a willful violation of an OSHA standard and that alleged violation results in the death of an employee, OSHA may ask the U. S. Department of Justice to seek criminal prosecution of the employer. These are difficult cases to prove: few cases reach court, and convictions are rare. However, should an employer be convicted, he or she could face a fine of up to \$250,000 individually and/or a jail term of up to six months. A corporation could receive a fine of as much as \$500,000.

OSHA FATALITY INSPECTIONS

Congress enacted the Occupational Safety and Health Act of 1970 (OSH Act) to assure safe and healthful working conditions for working men and women. The Occupational Safety and Health Administration (OSHA) were established under the OSH Act to provide for the enforcement of standards developed under the Act. These standards are enforced in every state by either Federal OSHA or a state-run program.

OSHA inspects the work sites where fatalities have occurred to determine whether a violation of OSHA safety and health standards occurred. These inspections are often comprehensive in nature, but at times may be limited to the area in which the fatality occurred. If OSHA finds that the employer violated safety and health standards, the agency may issue citations and seek civil penalties against the employer, and may also refer the case to the U.S. Department of Justice for possible criminal prosecution.

OSHA does not issue citations solely because there was a workplace fatality. However, if during any inspection, OSHA finds that the employer violated safety and health standards, the agency may issue citations and seek civil or criminal penalties against the employer.

Upon written request, OSHA can release those portions of the inspection file normally available for release under the Freedom of Information Act (FOIA). This information will be provided to next of kin, **without charge**. In an effort to keep the next of kin apprised of developments during an inspection, OSHA sends them copies of citations (the formal notice of alleged hazards in the workplace), appeal letters (the employers notice of disagreement with the issued citations), and informal settlements (a binding agreement between OSHA and the employer to settle the case) upon each documents issuance. Furthermore, OSHA exchanges information with the next of kin as follows:

1. At any time during the inspection or the resulting litigation, the next of kin may contact the local OSHA office to inquire about the status of the case or to ask questions.
2. If the next of kin has information or evidence that can assist in the inspection, he or she is encouraged to take a proactive role and share this information by writing, calling, or e-mailing the local OSHA office.
3. The next of kin is encouraged to follow up by inquiring about any information they have sent to OSHA, and to ask questions about information received from OSHA. In such cases, they are free to write or call the local OSHA office.
4. Upon issuance of the final order, the next of kin will be afforded the opportunity to meet with the Area Director to answer questions and explain the settlement decision.
5. OSHA will notify the next of kin when the case is closed. At that time, the portions of the file that can be released under FOIA will be made available to family members, at no charge, upon written request.

U.S. Department of Labor

Occupational Safety and Health Administration
Cincinnati Area Office
36 Triangle Park Drive
Cincinnati, OH 45246-3411
(513) 841-4132



September 29, 2016

Headwaters Plant Services, Inc.
1070 S. River Front
Suite 300
South Jordan, UT 84095

OSHA Inspection #1148200

Dear Sir:

Recently you or a company representative scheduled an informal conference with the Occupational Safety and Health Administration (OSHA). The conference will be held at the above address on October 11, 2016 at 9:00 a.m.

To ensure that the informal conference is productive and informational, please be prepared to discuss what corrective measures you have taken to protect your employees. If additional time is needed to complete those measures, be prepared to discuss the reasons for a date extension and what interim protective measures will be used until the hazard can be abated. **PLEASE ENSURE THAT THE PERSON ATTENDING THE INFORMAL CONFERENCE HAS THE AUTHORITY TO SETTLE THE CASE.**

The citation package included a "Certification of Corrective Action Worksheet." Using this sheet or an alternative document, please describe in writing your abatement efforts and bring this to the conference along with supporting information such as photos, invoices or other visible records. Your signed and dated letter of corrective action will allow the abatement portion of the inspection to be closed.

Should you have any questions regarding the inspection or about OSHA procedures in general, we can provide clarification at the Informal Conference. If you cannot make this scheduled appointment, please call our office anytime night or day.

Sincerely,

Ken E. Montgomery
Area Director

7C

From: Chapman, Michael J. <mchapman@rendigs.com>
Sent: Tuesday, September 20, 2016 3:23 PM
To: 7C
Cc: Phelps, Arthur E.; Chapman, Michael J.
Subject: RE: 11803-3 JASON JOLLY (Headwaters OSHA CONFERENCE)

7C

We sincerely appreciate your courtesies and your time today.

We would appreciate it if you could ask for permission to provide us with an email copy of the citation. We don't want it slipping through the cracks and Headwaters is eager to read your recommendations. Could you also provide us with the Inspection Number for the Dynegy investigation so we can make a FOIA request?

Thank you very much.

Mike

Michael J. Chapman
Rendigs, Fry, Kiely & Dennis, LLP
513-381-9336

From: 7C
Sent: Monday, September 19, 2016 1:26 PM
To: Chapman, Michael J.
Subject: RE: 11803-3 JASON JOLLY (Headwaters OSHA CONFERENCE)

Great! I will participate by telephone.

Thanks for setting this up.

From: Chapman, Michael J. [mailto:mchapman@rendigs.com]
Sent: Monday, September 19, 2016 1:11 PM
To: 7C
Cc: Phelps, Arthur E.; Chapman, Michael J.
Subject: RE: 11803-3 JASON JOLLY (Headwaters OSHA CONFERENCE)

7C

Per your call this morning, we are trying to make Headwaters available for a closing conference on **Tuesday at 2:30 pm EST (9/20/16)**.

We expect 5-6 attendees for Headwaters will call in including all key operating and safety executives.

Rendigs, Fry, Kiely & Dennis, LLP
600 Vine Street, Suite 2650
Cincinnati, Ohio 45202
Direct Dial: (513) 381-9336
Direct Fax: (513) 381-9395
Email: mchapman@rendigs.com



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7C

From: Chapman, Michael J. <mchapman@rendigs.com>
Sent: Tuesday, September 20, 2016 9:12 AM
To: 7C
Cc: Phelps, Arthur E.; Chapman, Michael J.
Subject: FW: JOLLY (Headwaters)
Attachments: Supervisor report of incident-Jason Jolly.pdf

7C

Attached is the finalized incident report from Headwaters. We will be available for the conference later today. If there is anything else you need from Headwaters, please let us know.

Michael J. Chapman, Esq.
Rendigs, Fry, Kiely & Dennis, LLP
600 Vine Street, Suite 2650
Cincinnati, Ohio 45202
Direct Dial: (513) 381-9336
Direct Fax: (513) 381-9395
Email: mchapman@rendigs.com

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7C

From: Chapman, Michael J. <mchapman@rendigs.com>
Sent: Monday, September 19, 2016 1:11 PM
To: [REDACTED] 7C
Cc: Phelps, Arthur E.; Chapman, Michael J.
Subject: RE: 11803-3 JASON JOLLY (Headwaters OSHA CONFERENCE)

7C

Per your call this morning, we are trying to make Headwaters available for a closing conference on **Tuesday at 2:30 pm EST (9/20/16)**.

We expect 5-6 attendees for Headwaters will call in including all key operating and safety executives.

You are welcome to join in person us at our offices at 600 Vine Street - Suite 2650 or you may participate by telephone. Parking should be available under our building at the northeast corner of 6th and Vine Streets. If you would like to participate by phone, a conference bridge will be established at 1-866-299-7945 and the participant code is 9753744.

Thank you,

Mike

Michael J. Chapman, Esq.
Rendigs, Fry, Kiely & Dennis, LLP
600 Vine Street, Suite 2650
Cincinnati, Ohio 45202
Direct Dial: (513) 381-9336
Direct Fax: (513) 381-9395
Email: mchapman@rendigs.com

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7C

From: Chapman, Michael J. <mchapman@rendigs.com>
Sent: Monday, September 19, 2016 9:14 AM
To: [REDACTED] 7C
Subject: RE: 11803-3 Hamilton County Coroner Report JASON JOLLY

Thank you. We are working to coordinate a call with Headwaters and will give you some dates and times.

Michael J. Chapman
Rendigs, Fry, Kiely & Dennis, LLP
513-381-9336

From: [REDACTED] 7C
Sent: Monday, September 19, 2016 5:20 AM
To: Chapman, Michael J.
Subject: RE: 11803-3 Hamilton County Coroner Report JASON JOLLY

Mr. Chapman,

I will be unavailable Wed & Thurs.

7C

From: Chapman, Michael J. [<mailto:mchapman@rendigs.com>]
Sent: Friday, September 16, 2016 8:49 AM
To: [REDACTED] 7C
Subject: RE: 11803-3 Hamilton County Coroner Report JASON JOLLY

Thank you. We will be in touch shortly.

Michael J. Chapman
Rendigs, Fry, Kiely & Dennis, LLP
513-381-9336

From: [REDACTED] 7C
Sent: Friday, September 16, 2016 8:47 AM
To: Chapman, Michael J.
Subject: RE: 11803-3 Hamilton County Coroner Report JASON JOLLY

Mr. Chapman,

I would like to set up a closing conference with you and the employer next week. I could come to your location and we could hold a telephonic conference with the employer if you like. Please let me know what day and time would be best for you.

Thanks!

Very Respectfully,

From: Chapman, Michael J. [mailto:mchapman@rendigs.com]
Sent: Thursday, September 08, 2016 11:09 AM
To: [REDACTED]
Cc: Phelps, Arthur E.; Chapman, Michael J.
Subject: FW: 11803-3 Hamilton County Coroner Report JASON JOLLY

[REDACTED] Attached is the Coroner's report that we received today. Headwater's will finish its report shortly and we will provide you with a copy.

Michael J. Chapman, Esq.
Rendigs, Fry, Kiely & Dennis, LLP
600 Vine Street, Suite 2650
Cincinnati, Ohio 45202
Direct Dial: (513) 381-9336
Direct Fax: (513) 381-9395
Email: mchapman@rendigs.com

Rendigs
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7C

From: Johnson, Gaye - OSHA
Sent: Thursday, September 15, 2016 4:42 PM
To: Wallace, Debbie - OSHA; Meadows, William - OSHA
Subject: FW: Approved Fatality Memo-Headwaters Plant Service, Inc.
Attachments: Approved Fatality Memo-Headwaters Plant Service, Inc..pdf

7C please place copy in the file and get file ready to issue, thanks.

From: Lawless, Sonya - OSHA
Sent: Thursday, September 15, 2016 4:18 PM
To: Montgomery, Ken - OSHA; Johnson, Gaye - OSHA
Cc: Lambert, Richard - OSHA; Lamb, Greta - OSHA; Lescallett, Gary - OSHA; McManus, James - OSHA
Subject: Approved Fatality Memo-Headwaters Plant Service, Inc.

Please find the approved fatality memo for Headwaters Plant Service, Inc.

Respectfully,

Sonya M. Lawless
Enforcement Programs

UNIT. Department of Labor PERSON of Labor DATE

EP	SMZ	9/15
EP	JFM	9/15
D/A	AM	9/15
MEMORANDUM FOR:		
FROM:		

Occupational Safety and Health Administration
Cincinnati Area Office
Cincinnati, OH 45246
Telephone: (513)841-4132
Fax: (513)841-4114



Ken Nishiyama Atha
Regional Administrator

Ken E. Montgomery
Area Director
Cincinnati Area Office

SUBJECT:

Notification of Fatality Case
Headwaters Plant Service, Inc.
10701 S. River Front, Suite 300
South Jordan, UT 84095
Inspection # 1148200
Total Penalty: \$11,224

REASON FOR INSPECTION

The inspection was initiated on May 18, 2016, following an employer reported employee fatality that occurred on May 17, 2016, at approximately 7:45 P.M. at the Dynegy Miami Fort, LLC facility, located at 11021 Brower Rd., North Bend, OH 45052. Dynegy Miami Fort, LLC contracted landfill work to Headwaters Plant Service, Inc. on its facility.

At the time of the incident, Headwaters Plant Service, Inc. had three employees at the site. The foreman, who was also the victim, was a 32 year old male, equipment operator. All employees were permanent employees of Headwaters Plant Service, Inc. and were performing their regular duties. The employees were removing fly ash (mud) from a chimney located in the land fill.

During this operation, an employee was operating a Komatsu PC350 excavator to remove mud that was accumulated around a chimney. While performing this activity, the excavator became stuck in the mud and was unable to be freed by the operator. The Foreman, who had been operating a Komatsu D65EX dozer nearby, instructed two employees to construct a makeshift tow strap by connecting four synthetic web slings together using Crosby WLL 17T shackles.

One end of the makeshift tow strap was rigged in a basket hitch configuration to the dozer's draw bar pin, which is located on the lower rear center of the dozer. The other end of the makeshift tow strap was rigged to the excavator's bucket hook using a Copperhead WLL 25T shackle.

As the dozer attempted to pull the excavator free from the mud, the sling attached to the excavator's bucket hook failed and ripped free from the shackle. The sudden release of tension caused the slings and shackles to propel forward into the rear of the dozer. One of the Crosby WLL 17T shackles struck the operator's seat, causing blunt impact injuries that resulted in the death of the victim.

There is one causative factor for this fatal accident:

The investigation was able to determine that the use of the synthetic slings was not manufactured to be used in this manner as a tow strap.

VIOLATION/CITATION/PENALTY SUMMARY

There is one serious (5)(a)(1) violation being proposed.

ITEM	STANDARD	DESCRIPTION	GBP	ADJUSTMENT FACTORS	ADJUSTED PENALTY
1-1	OSH ACT of 1970 Section (5)(a)(1)	Employees were exposed to struck by and crushing hazards created by mobile equipment towing operation	\$12,471.00	Size – 0% History – 0% Good Faith – 0%	\$12,471.00
				Total Violations	Total Penalties
SERIOUS VIOLATIONS				1	\$12,471.00
REPEAT VIOLATIONS				0	
WILLFUL VIOLATIONS				0	
TOTAL FOR INSPECTION 1148200				1	\$12,471.00

7C

From: Wallace, Debbie - OSHA
Sent: Wednesday, September 07, 2016 7:29 AM
To: [REDACTED] 7C
Subject: FW: Headwaters Plant Services 5a1

Importance: High

FYI. We have to do a fatality memo. See below.

Debbie Wallace
Assistant Area Director
Cincinnati Area Office
513-841-4132

From: Wallace, Debbie - OSHA
Sent: Tuesday, September 06, 2016 1:09 PM
To: McNicholas, Matt - OSHA
Cc: Williams, Ann - OSHA
Subject: RE: Headwaters Plant Services 5a1
Importance: High

Matt,

We were under the impression that we do not have to complete the fatality memo any more.

Debbie Wallace
Assistant Area Director
Cincinnati Area Office
513-841-4132

Deliberative process Ex. 5

DELIBERATIVE PROCESS #5

Wallace, Debbie - OSHA

From: Wallace, Debbie - OSHA
Sent: Friday, August 05, 2016 9:24 AM
To: zzOSHA-CHICAGO-5A1-REVIEWGROUP
Subject: Headwaters Plant Services #1148200 5(a)(1)

Tracking:

Recipient

Delivery

zzOSHA-CHICAGO-5A1-REVIEWGROUP

Williams.Ann@dol.gov

Delivered: 8/5/2016 9:24 AM

Lescallett.Gary@dol.gov

Delivered: 8/5/2016 9:24 AM

7C

Delivered: 8/5/2016 9:24 AM

- Area Office- Cincinnati
- OIS #1148200
- Employer Name-Headwaters Plant Services, Inc.
- Hazard-struck-by two employees were attempting to remove a Komatsu PC 350 hydraulic excavator when a nylon strap broke free from shackle, causing shackle to strike the employee resulting in a fatality.
- Reference or consensus standard-Komatsu Bulldozer Model D65EX-15 & Komatsu PC350-8 Hydraulic Excavator Operators and Maintenance Manual
- Employee Exposure-Employee was operating a Komatsu Bulldozer with three different lengths of nylon rope joined together by four shackles attached to the bucket of a Komatsu Excavator and were exposed to struck-by and/or crushing hazards that failed becoming disengaged from the end of the bucket and the excavator while performing towing operations striking the dozer cab and penetrating the seat and the employee operating the dozer.
- Area Office Point of Contact- Ken Montgomery AD, Debbie Wallace AAD and

7C

I have placed the required information in O Drive-Region 5-EP-5a1s for review-Cincinnati.

CSHO ID Ex. 7c

Debbie Wallace
 Assistant Area Director
 Cincinnati Area Office
 513-841-4132

Subject:

RE: Accident Investigation

CSHO ID Ex. 7c

Ok, thanks much for your prompt reply.

From: Chapman, Michael J. [mailto:mchapman@rendigs.com]

Sent: Wednesday, August 03, 2016 1:16 PM

To: [REDACTED] 7C

Cc: Phelps, Arthur E.; Chapman, Michael J.

Subject: RE: Accident Investigation

[REDACTED] 7C

It is still not finished. We are still waiting on the coroner's report to confirm the cause of death. We will promptly forward the report to you once finished.

Michael J. Chapman
Rendigs, Fry, Kiely & Dennis, LLP
513-381-9336

From: [REDACTED] 7C

Sent: Wednesday, August 03, 2016 1:13 PM

To: Chapman, Michael J.

Subject: Accident Investigation

Mr. Chapman,

Has the accident investigation report been completed by the employer Headwaters Plant Services, Inc. and if so, could you please provide me a copy of this report as requested back in May 2016.

Thanks in advance.

Very Respectfully,

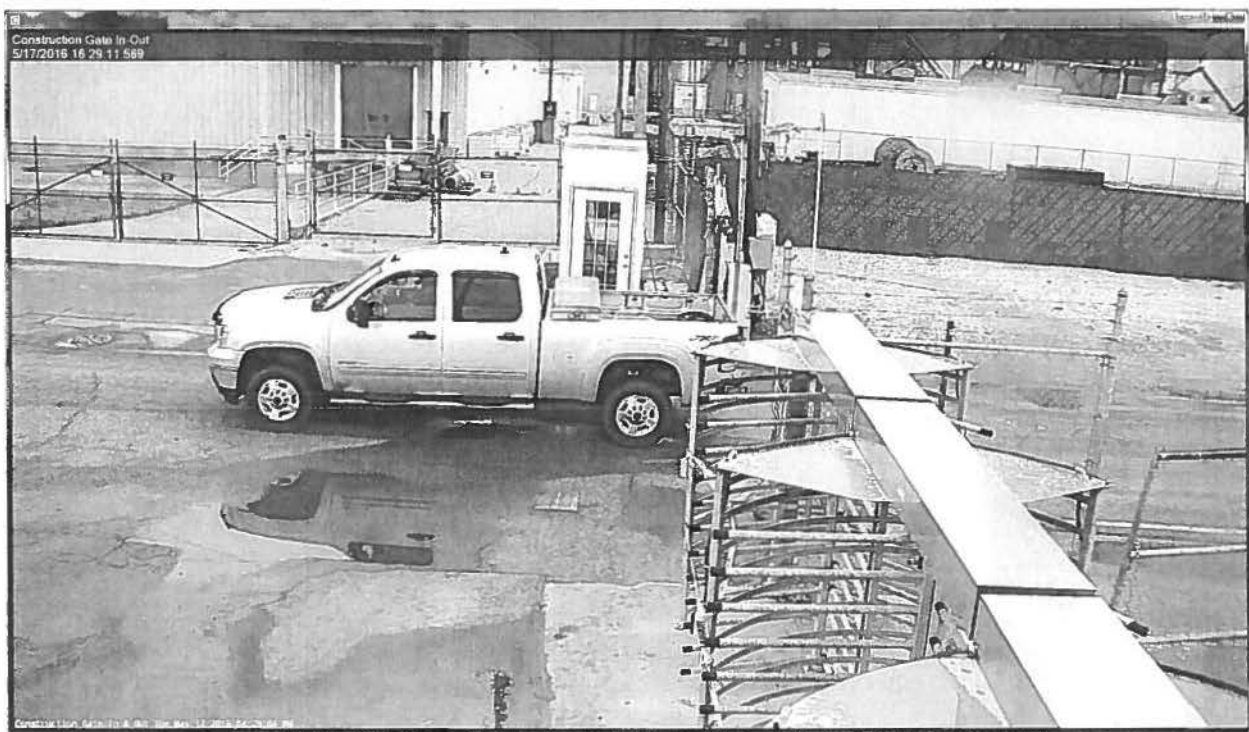
[REDACTED] 7C

*Compliance Safety & Health Officer
Cincinnati Area Office
36 Triangle Park Drive
Cincinnati, Ohio 45246
T- (513) 841-4132
F- (513) 841-4114*



The electronic message from Rendigs, Fry, Kiely & Dennis may contain attorney-client information that is privileged at law and/or health information that is protected by federal law. If you are not the intended recipient, be advised that you have received this email in error and that any use, dissemination, forwarding, printing, or copying of this email is prohibited. If you have received this email in error please notify us by telephone at 513.381.9200 or reply to the sender.





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- Failure to READ, UNDERSTAND AND FOLLOW the safe use of this product may result in death or serious injury!
- Refer to ASME B30.9; OSHA 29 CFR 1915.154.
- Inspect for damage BEFORE each use.
- Remove from service if there are: Snags, punctures, tears, cuts or excessive abrasion, acid or caustic burns, melting, charring or burning of sling, UV degradation, broken or worn stitches, red threads visible.
- Protect sling from being cut.
- Do not expose to temperatures greater than 194°F (90°C).

↑ ADVERTENCIA

- Se corre el riesgo de incurrir lesiones o incluso de muerte si no LEER, COMPRENDER Y OBSERVAR las reglas de seguridad al usar este producto.
- Referirse a ASME B30.9 y OSHA 29CFR 1915.154.
- Inspeccione para asegurarse que no haya daños ANTES de cada uso.
- Retire de servicio si existen:
 - Enganches, perforaciones, desgarramientos, cortes o abrasiones excesivas.
 - Quemaduras químicas o causadas por ácido, perforación que se han fundido, chamuscado o quemado.
 - Degradación ultravioleta. Roturas o desgaste en puntos de costura que expongan los alambres rojos.
- Proteja el cable de para que no se corte.
- No exponer a temperaturas mayores 194°F (90°C).

7C

From: 7C
Sent: Monday, August 01, 2016 7:48 AM
To: Chapman, Michael J. (mchapman@rendigs.com)
Cc: 'j.miller@headwaters.com'
Subject: OSHA Penalty Changes
Attachments: OSHA_CINCINNATI_DOC008.pdf

Mr. Chapman,

I wanted to forward you a courtesy copy on the recent changes to OSHA penalties (please see attached).

Very Respectfully,

7C

*Compliance Safety & Health Officer
Cincinnati Area Office
36 Triangle Park Drive
Cincinnati, Ohio 45246
T- (513) 841-4132
F- (513) 841-4114*



7C

To: wwelder@fmmafc.com
 Subject: RE: Straps

Wendy,

I was looking for any consensus standard(s) that would apply to the reference slings. Basically, the do's & don'ts on the use of the slings such as but not limited to horizontal vs vertical use.

Thanks again!

7C

From: wwelder@fmmafc.com [mailto:wwelder@fmmafc.com]
 Sent: Friday, July 01, 2016 11:27 AM
 To: 7C
 Subject: RE: Straps

Good Morning 7C

I have looked at the photos you sent.
 Please let me know how I can help in your investigation.
 I have attached a file showing our blank sling label.
 Have a nice holiday.

Thank you,
 Wendy

Wendy Welder
Warehouse Manager
F&M MAFCO, Inc.
The Powerful Solutions People
 P.O. Box 11013
 Cincinnati, OH 45211
 Direct: 513.367.8259
 Cell: 513.687.1263
www.fmmafc.com

Please consider the impact to the environment before printing this e-mail.

CSHO ID Ex. 7C

From: 7C
 Sent: Wednesday, June 29, 2016 8:02 AM
 To: Welder, Wendy
 Subject: Straps

Wendy,

Per our conversation today, I have attached the straps for your review.

Thanks in advance!

7/29/2016
 CSHO SPOKE with Wendy Welder.
 • STATED company does not have
 or provide documentation on the use
 of their slings.
 • THE SLING ITSELF HAS A LABEL ON
 IT THAT ILLUSTRATES THE
 USE ONLY IN A VERTICAL
 POSITION.
 • WHEN SOLD TO CUSTOMERS,
 SHE STATED THEY TELL
 THEM IT CAN ONLY BE
 USED IN A VERTICAL
 POSITION.

7C

From: 7C
Sent: Wednesday, June 22, 2016 9:18 AM
To: 7C; Lambert, Richard - OSHA; 7C Lescallett, Gary
OSHA
Cc: 7C Wallace, Debbie - OSHA
Subject: Jason Jolly
Attachments: Jason Jolly.pdf

7C

Administrative Assistant/Contractor
Occupational Safety and Health Administration
U.S. Department of Labor
Directorate of Enforcement Programs (DEP)
200 Constitution Avenue, NW
Room N3119
Washington, DC 20210

7C

U.S. Department of Labor

Assistant Secretary for
Occupational Safety and Health
Washington, D.C. 20210



JUN 10 2015

Next of Kin ID Ex. 7C

7C

Please accept my heartfelt condolences on the tragic death of your son, Jason Jolly. All of us at the Occupational Safety and Health Administration (OSHA) deeply regret the loss of his life.

Please be assured that OSHA is investigating the circumstances surrounding Mr. Jolly's death. We realize that the results of this investigation are very important to you, so we will inform you of our findings as soon as the investigation is completed.

OSHA is committed to preventing injuries and illnesses on the job. Given our mission of assuring safe workplaces, we understand that each worker's death is a personal loss and tragedy.

Since your son's death occurred in Ohio, which is part of OSHA's Region V, our investigators from the region will be handling the investigation. If you have any questions about the investigation (ref: OSHA Inspection No. 1148200), or any information you think might be helpful, please do not hesitate to contact Ken E. Montgomery, Area Director, at the following address:

USDOL/OSHA
36 Triangle Park Drive
Cincinnati, Ohio 45246
Phone: (513) 841-4132
Fax: (513) 841-4114

Again, please accept my sincere sympathy and regret for your loss. If OSHA can be of any assistance to you, your family, or friends, please do not hesitate to contact us.

Sincerely,

A handwritten signature in black ink, appearing to read "David Michaels", is written over a horizontal line.

David Michaels, PhD, MPH

Subject:

RE: Headwaters Plant Services

Deliberative process Ex. 5

DELIBERATIVE PROCESS #5

DELIBERATIVE PROCESS #5

Cc: Montgomery, Ken - OSHA; Williams, Ann - OSHA; [REDACTED] 7C Johnson,
G. - OSHA; Wallace, Debbie - OSHA
Subject: RE: Headwaters Plant Services

Thanks. Be sure to include the documentation from the operators manual, JHA and custom and practice in the industry to support.

OSHA employees ID; CSHO ID; Ex. 7C

Ann [REDACTED] 7C -- please assign to [REDACTED] 7C when this is submitted.

From: [REDACTED] 7C
Sent: Tuesday, June 21, 2016 7:56 AM
To: [REDACTED] 7C
Cc: Montgomery, Ken - OSHA; Lescallett, Gary - OSHA
Subject: Headwaters Plant Services

[REDACTED] 7C

I've looked through everything you sent, and have the following conclusions:

- The straps were extremely overloaded, and would not be expected to carry the load applied.
- The cohesive clay soil, in wet conditions, applies a type of suction-like force to the excavator. This makes the forces applied to the system as a whole greater than simply the weight of the machine.
- Connecting the tow strap to the shovel on the excavator was a mistake. The tow bar/strap should always be connected to the frame, which can sustain the forces, and which would be most beneficial to the towing operation. Odds are that if the strap didn't fail, the shovel or arm would have been damaged or failed completely, which could have also posed a struck-by hazard.
- All attachments and extra weight should be removed from the excavator prior to attempting the tow operation.
- The dozer was smaller than the excavator. It weighed less. Whenever a towing operation takes place, the vehicle doing the towing needs to be bigger than the vehicle that's stuck.
- The procedure chosen in this case goes against industry practice, the operator's manual warnings, and the company's JHA.

If you want something more specific, or help with citations, please let me know.

[REDACTED] 7C

Civil Engineer
Dept. of Labor – OSHA
230 S. Dearborn, Suite 3244
Chicago, IL 60604

[REDACTED] 7C

Subject:

RE:

Yes, I will send them to you via email shortly...

From: [REDACTED] 7C

Sent: Tuesday, May 31, 2016 8:20 AM

To: Kotlas, Caroline A.

Subject: RE:

Thanks! I was able to open this. Would you know if there were any photos taken?

Very Respectfully,

7C

Compliance Safety & Health Officer

Cincinnati Area Office

36 Triangle Park Drive

Cincinnati, Ohio 45246

T- (513) 841-4132

F- (513) 841-4114



From: Kotlas, Caroline A. [<mailto:CKotlas@sheriff.hamilton-co.org>]

Sent: Tuesday, May 31, 2016 8:15 AM

To: [REDACTED] 7C

Subject:

Attachments:

201605241400-1.tif

7C

From: Kotlas, Caroline A. <CKotlas@sheriff.hamilton-co.org>
Sent: Friday, June 03, 2016 8:37 AM
To: 7C
Subject: 5/17/16 Lawrenceburg Rd Fatality
Attachments: DSC_0716.jpg; DSC_0717.jpg; DSC_0718.jpg; DSC_0719.jpg; DSC_0720.jpg; DSC_0721.jpg; DSC_0722.jpg; DSC_0723.jpg; DSC_0724.jpg; DSC_0725.jpg; DSC_0726.jpg; DSC_0727.jpg; DSC_0728.jpg; DSC_0729.jpg; DSC_0730.jpg; DSC_0731.jpg; DSC_0732.jpg; DSC_0733.jpg; DSC_0734.jpg; DSC_0735.jpg; DSC_0736.jpg; DSC_0737.jpg; DSC_0738.jpg; DSC_0739.jpg; DSC_0740.jpg; DSC_0741.jpg; DSC_0742.jpg; DSC_0743.jpg; DSC_0744.jpg; DSC_0745.jpg; DSC_0746.jpg; DSC_0747.jpg; DSC_0748.jpg; DSC_0749.jpg; DSC_0750.jpg; DSC_0751.jpg; DSC_0752.jpg; DSC_0753.jpg; DSC_0754.jpg; DSC_0755.jpg; DSC_0756.jpg; DSC_0757.jpg; DSC_0758.jpg; DSC_0759.jpg; DSC_0760.jpg; DSC_0761.jpg; DSC_0762.jpg; DSC_0763.jpg; DSC_0764.jpg; DSC_0765.jpg; DSC_0766.jpg; DSC_0767.jpg; DSC_0768.jpg; DSC_0769.jpg; DSC_0770.jpg; DSC_0771.jpg; DSC_0772.jpg; DSC_0773.jpg; DSC_0774.jpg; DSC_0775.jpg; DSC_0776.jpg; DSC_0777.jpg; DSC_0778.jpg; DSC_0779.jpg; DSC_0780.jpg; DSC_0781.jpg; DSC_0782.jpg; DSC_0783.jpg; DSC_0784.jpg; DSC_0785.jpg; DSC_0786.jpg; DSC_0787.jpg; DSC_0788.jpg; DSC_0789.jpg

Subject:**Attachments:**

5/17/16 Lawrenceburg Rd Fatality

D 716.jpg; DSC_0717.jpg; DSC_0718.jpg; D 719.jpg; DSC_0720.jpg; DSC_0721.jpg; DSC_0722.jpg; DSC_0723.jpg; DSC_0724.jpg; DSC_0725.jpg; DSC_0726.jpg; DSC_0727.jpg; DSC_0728.jpg; DSC_0729.jpg; DSC_0730.jpg; DSC_0731.jpg; DSC_0732.jpg; DSC_0733.jpg; DSC_0734.jpg; DSC_0735.jpg; DSC_0736.jpg; DSC_0737.jpg; DSC_0738.jpg; DSC_0739.jpg; DSC_0740.jpg; DSC_0741.jpg; DSC_0742.jpg; DSC_0743.jpg; DSC_0744.jpg; DSC_0745.jpg; DSC_0746.jpg; DSC_0747.jpg; DSC_0748.jpg; DSC_0749.jpg; DSC_0750.jpg; DSC_0751.jpg; DSC_0752.jpg; DSC_0753.jpg; DSC_0754.jpg; DSC_0755.jpg; DSC_0756.jpg; DSC_0757.jpg; DSC_0758.jpg; DSC_0759.jpg; DSC_0760.jpg; DSC_0761.jpg; DSC_0762.jpg; DSC_0763.jpg; DSC_0764.jpg; DSC_0765.jpg; DSC_0766.jpg; DSC_0767.jpg; DSC_0768.jpg; DSC_0769.jpg; DSC_0770.jpg; DSC_0771.jpg; DSC_0772.jpg; DSC_0773.jpg; DSC_0774.jpg; DSC_0775.jpg; DSC_0776.jpg; DSC_0777.jpg; DSC_0778.jpg; DSC_0779.jpg; DSC_0780.jpg; DSC_0781.jpg; DSC_0782.jpg; DSC_0783.jpg; DSC_0784.jpg; DSC_0785.jpg; DSC_0786.jpg; DSC_0787.jpg; DSC_0788.jpg; DSC_0789.jpg

7C

From: Kotlas, Caroline A. <CKotlas@sheriff.hamilton-co.org>
Sent: Friday, June 03, 2016 8:37 AM

To: 7C

Subject: 5/17/16 Lawrenceburg Rd Fatality

Attachments: DSC_0716.jpg; DSC_0717.jpg; DSC_0718.jpg; DSC_0719.jpg; DSC_0720.jpg; DSC_0721.jpg; DSC_0722.jpg; DSC_0723.jpg; DSC_0724.jpg; DSC_0725.jpg; DSC_0726.jpg; DSC_0727.jpg; DSC_0728.jpg; DSC_0729.jpg; DSC_0730.jpg; DSC_0731.jpg; DSC_0732.jpg; DSC_0733.jpg; DSC_0734.jpg; DSC_0735.jpg; DSC_0736.jpg; DSC_0737.jpg; DSC_0738.jpg; DSC_0739.jpg; DSC_0740.jpg; DSC_0741.jpg; DSC_0742.jpg; DSC_0743.jpg; DSC_0744.jpg; DSC_0745.jpg; DSC_0746.jpg; DSC_0747.jpg; DSC_0748.jpg; DSC_0749.jpg; DSC_0750.jpg; DSC_0751.jpg; DSC_0752.jpg; DSC_0753.jpg; DSC_0754.jpg; DSC_0755.jpg; DSC_0756.jpg; DSC_0757.jpg; DSC_0758.jpg; DSC_0759.jpg; DSC_0760.jpg; DSC_0761.jpg; DSC_0762.jpg; DSC_0763.jpg; DSC_0764.jpg; DSC_0765.jpg; DSC_0766.jpg; DSC_0767.jpg; DSC_0768.jpg; DSC_0769.jpg; DSC_0770.jpg; DSC_0771.jpg; DSC_0772.jpg; DSC_0773.jpg; DSC_0774.jpg; DSC_0775.jpg; DSC_0776.jpg; DSC_0777.jpg; DSC_0778.jpg; DSC_0779.jpg; DSC_0780.jpg; DSC_0781.jpg; DSC_0782.jpg; DSC_0783.jpg; DSC_0784.jpg; DSC_0785.jpg; DSC_0786.jpg; DSC_0787.jpg; DSC_0788.jpg; DSC_0789.jpg

7C

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Sent: Friday, June 03, 2016 8:37 AM
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Miami
Township
Hamilton

County

CALLED 5-26-18
TO REQUEST REPORT &
PHOTOS.

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Harrison - Symmes
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Museum

Welcome to Miami Township in Hamilton County! >

Fire Department

Miami Township Fire Department Fire Stations

EMS Crew Report only

The Department operates with a combined full-time, part-time paid and volunteer staff, with 3 stations having on-site around-the-clock staffing. Steve Ober is Fire Chief, Mike Wells is Assistant Chief and they can be reached at Fire Headquarters, 3780 Shady Lane, North Bend, Ohio. The phone number is (513) 941-2466 and the fax number is (513) 941.9307



Station 68

KOT/AS (513)
595-7464

- Miami Township Fire & EMS covers 21 square miles

HAMILTON CO.
SHERIFF DIST 9
CALL ON Tuesday

7C

From: Chapman, Michael J. <mchapman@rendigs.com>
Sent: Thursday, May 26, 2016 2:10 PM
To: 7C
Cc: j.miller@headwaters.com
Subject: RE: Jason Jolly (Headwaters) Miami Fort Generating Station

This makes sense and we will do this. Thank you.

Michael J. Chapman
 Rendigs, Fry, Kiely & Dennis, LLP
 513-381-9336

From: 7C
Sent: Thursday, May 26, 2016 2:09 PM
To: Chapman, Michael J.
Cc: j.miller@headwaters.com
Subject: RE: Jason Jolly (Headwaters) Miami Fort Generating Station

Mr. Chapman,

To make things much easier, just provide a list of "All" training completed by each employee Rob, David, & Jason. I can then review the list and request on what certificates/or documentation I will need for the case file and therefore less copies would have to be made.

Thanks in advance!

Very Respectfully,

7C

*Compliance Safety & Health Officer
 Cincinnati Area Office
 36 Triangle Park Drive
 Cincinnati, Ohio 45246
 T- (513) 841-4132
 F- (513) 841-4114*



From: Chapman, Michael J. [mailto:mchapman@rendigs.com]
Sent: Thursday, May 26, 2016 1:30 PM
To: 7C
Cc: j.miller@headwaters.com; Chapman, Michael J.
Subject: RE: Jason Jolly (Headwaters) Miami Fort Generating Station

7C

We would appreciate your clarification with regard to the requested training records. Do you want all training records for the employees or just training records related to towing, recovery, rigging, and operation of the equipment in issue? We heard that you wanted training records for employees Rob

From: [REDACTED] 7C
Sent: Thursday, May 26, 2016 9:18 AM
To: Chapman, Michael J.
Subject: RE: Jason Jolly (Headwaters) Miami Fort Generating Station

Mr. Chapman,

It was a pleasure meeting you as well and thanks for your support on this matter.

Very Respectfully,

7C

*Compliance Safety & Health Officer
Cincinnati Area Office
36 Triangle Park Drive
Cincinnati, Ohio 45246
T- (513) 841-4132
F- (513) 841-4114*



From: Chapman, Michael J. [<mailto:mchapman@rendigs.com>]
Sent: Thursday, May 26, 2016 9:03 AM
To: [REDACTED] 7C
Cc: Phelps, Arthur E.; Chapman, Michael J.; jmiller@headwaters.com
Subject: Jason Jolly (Headwaters) Miami Fort Generating Station
Importance: High

7C

It was a pleasure to meet you yesterday at the Miami Fort Generating Station. Please be assured that workplace safety is the top priority for Headwaters. We are now working diligently to gather the remaining documents that you requested. If you need anything else, please do not hesitate to contact us. John Miller is copied on this email.

Thank you very much.

Michael J. Chapman, Esq.
Rendigs, Fry, Kiely & Dennis, LLP
600 Vine Street, Suite 2650
Cincinnati, Ohio 45202
Direct Dial: (513) 381-9336
Direct Fax: (513) 381-9395
Email: mchapman@rendigs.com

Rendigs
LAW

Cc: j.miller@headwaters.com
Subject: RE on Jolly (Headwaters) Miami Fort Generating Station

This makes sense and we will do this. Thank you.

CSHO ID Ex. 7C

Michael J. Chapman
Rendigs, Fry, Kiely & Dennis, LLP
513-381-9336

From: [REDACTED] 7C
Sent: Thursday, May 26, 2016 2:09 PM
To: Chapman, Michael J.
Cc: j.miller@headwaters.com
Subject: RE: Jason Jolly (Headwaters) Miami Fort Generating Station

Mr. Chapman,

To make things much easier, just provide a list of "All" training completed by each employee Rob, David, & Jason. I can then review the list and request on what certificates/or documentation I will need for the case file and therefore less copies would have to be made.

Thanks in advance!

Very Respectfully,

7C

*Compliance Safety & Health Officer
Cincinnati Area Office
36 Triangle Park Drive
Cincinnati, Ohio 45246
T- (513) 841-4132
F- (513) 841-4114*



From: Chapman, Michael J. [mailto:mchapman@rendigs.com]
Sent: Thursday, May 26, 2016 1:30 PM
To: [REDACTED] 7C
Cc: j.miller@headwaters.com; Chapman, Michael J.
Subject: RE: Jason Jolly (Headwaters) Miami Fort Generating Station

7C

We would appreciate your clarification with regard to the requested training records. Do you want all training records for the employees or just training records related to towing, recovery, rigging, and operation of the equipment in issue? We heard that you wanted training records for employees Rob and David but we presume that you want Jason's records too.

Thank you,

Michael J. Chapman, Esq.
Rendigs, Fry, Kiely & Dennis, LLP
600 Vine Street, Suite 2650

Cc: John Miller; Chapman, Michael J.; Phelps, Arthur E.
Subject: O INVESTIGATION (MIAMI FORT GENERATOR STATION)(HEADWATERS)(JASON JOLLY)
Attachments: Mimecast Large File Send Instructions

I'm using Mimecast to share large files with you. Please see the attached instructions.

CSHO ID Ex. 7C

Dear [REDACTED] 7C

On May 25, 2016 and in a subsequent email, you requested Headwaters to provide you with certain documents. The requested documents are identified below and attached hereto as follows:

1. D65 Dozer Specification Sheet

Employees ID Ex.7C

2. PC350 Excavator Operation and Maintenance Manual

3. Records of safety training received by Jason, [REDACTED] 7C

4. JHA's for towing/recovery procedures

COMMENT: [REDACTED] 7C signed off on the JHA implemented at the Spurlock facility. Jason did not. During the winter and until recently, Jason was on a long-term assignment in Michigan. The Michigan facility did not adopt the JHA because the Headwaters' employees at the Michigan facility do not operate heavy equipment. However, Jason was made aware of the policy as a transient employee per the attached affidavit of [REDACTED] 7C

5. Internal Investigation Report

COMMENT: The company's investigation and conclusions are not yet final and the company is waiting on the coroner's report. This document will be provided to you soon.

6. Operator's licenses (Jason, [REDACTED] 7C

COMMENT: CDL's are not required to operate heavy equipment. Headwaters requires compliance with the attached 13.8 Safety Standards. Headwaters also requires a performance-based competency evaluation on each piece of equipment.

7. All training concerning rigging

COMMENT: No rigging-specific training was provided to employees Jason, Rob and David. Headwaters' Spurlock employees do not engage in any lifting / hoisting activities and they do not use cranes, derricks, boom trucks, etc.

As an additional comment, Headwaters would like to correct a comment that you made at the interview session suggesting that Jason hit his head on the windshield during the accident. Headwaters' information is that Jason was properly seat-belted in the Dozer at the time of the accident and believes that the windshield was broken by the EMS rescue crew. We suspect that the coroner's report will confirm this.

If you need anything else, please do not hesitate to contact us.



The electronic message from Rendigs, Fry, Kiely & Dennis may contain attorney-client information that is privileged at law and/or health information that is protected by federal law. If you are not the intended recipient, be advised that you have received this email in error and that any use, dissemination, forwarding, printing, or copying of this email is prohibited. If you have received this email in error please notify us by telephone at 513.381.9200 or reply to the sender.

7C

From: 7C
Sent: Tuesday, June 07, 2016 8:51 AM
To: 7C
Subject: Headwaters Plant Service, Inc. INS# 1148200

7C

Ken Montgomery & Debbie Wallace wanted me to coordinate with you on this fatality case file that I'm investigating . I have placed several large documents on a thumb drive that will be mailed to you today.

If you should have any questions, please let me know and thanks for helping me on this case file.

Very Respectfully,

7C

*Compliance Safety & Health Officer
Cincinnati Area Office
36 Triangle Park Drive
Cincinnati, Ohio 45246
T- (513) 841-4132
F- (513) 841-4114*



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F- (513) 841-4114*



CSHO 7C Short Narrative of the Fatality Accident

Site Address: 11021 Brower Rd (Lawrenceburg Landfill)
North Bend, OH 45052

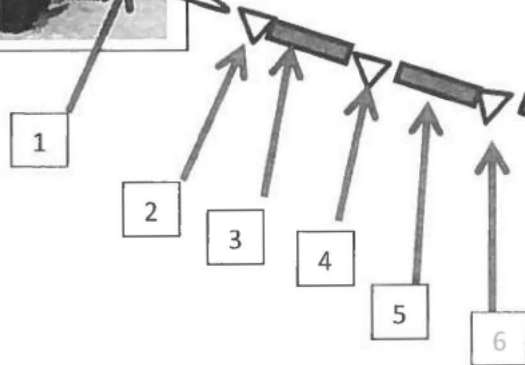
Date of Accident: 5/17/2016

On May 17, 2016 three employees working for Headwaters Plant Services, Inc. (HPS) were engaged in removing fly ash (mud) from a chimney located on a land fill using a Kamat'su PC350 Excavator. During this operation, the excavator was stuck in the mud and was unable to pull out. Employees along with another employee employed by Dynegy Miami Fort, LLC (Customer) left the site to obtain tow straps located at the Dynegy Miami Fort, LLC tool shop. Employees returned back to the site and attached four (4) separate 4" synthetic slings together using shackles between each sling.

One end of was rigged by a basket hitch (10' X 4") sling to a Kamat'su Dozer D65EX-15 draw bar pin located on the rear lower center of the dozer. The other end was rigged to the Kamat'su PC350 Excavator bucket hook using a Copperhead shackle WLL 25T and 20' X 4" synthetic sling. Between these slings were a 30'X4", 20'X4" slings and two (2) Crosby WLL 17T shackles.

The dozer was to maintain the weight of the excavator while the excavator operator was to use the bucket to pull out. During the process of performing this operation, the sling attached to the bucket hook of the excavator broke away from the shackle projecting the sling and shackle into the rear cab of the dozer. The shackle (Crosby WLL 17T) struck the dozers operator seat causing blunt impact injuries/fatality to the dorsal torso of the dozer operators back.

KOMATSU Dozer D65EX-15



1. 4" X 10' synthetic sling (rigged as a basket hitch) attached to the pin of the dozer.
2. Crosby Shackle WLL 17T 1/12
3. 4"X 30' synthetic sling
4. Crosby Shackle WLL 17T 1/12
5. 4"X 20' synthetic sling
6. Crosby Shackle WLL 17T 1/12
7. 4"X 20' synthetic sling
8. Copperhead Shackle WLL25T CA1 -1/34A attached to the bucket of the excavator



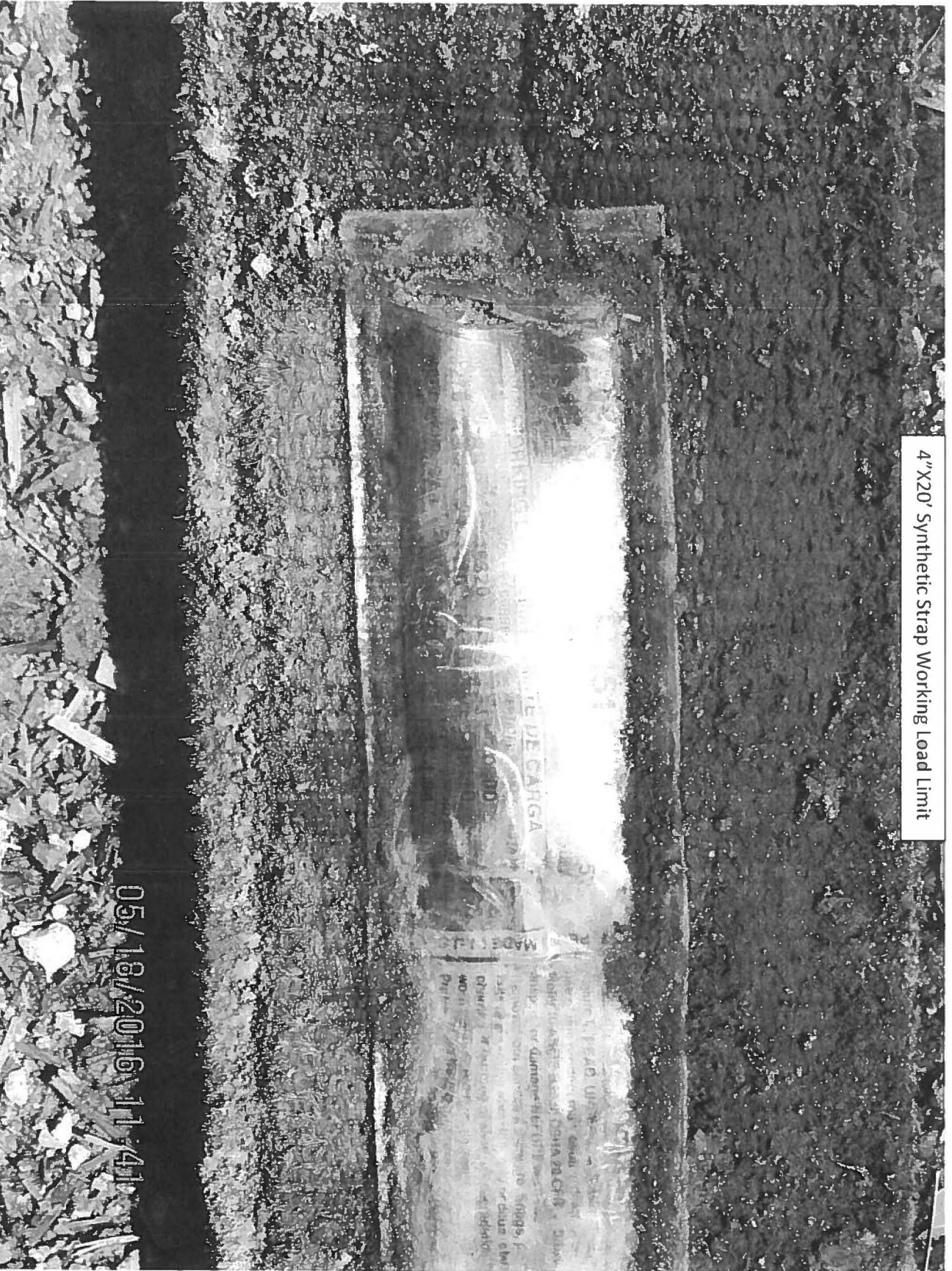
KOMATSU Excavator PC350

4"X30' Synthetic Strap Working Load Limit

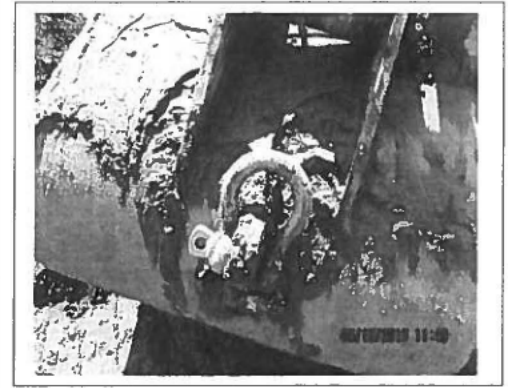


05/31/2016 11:53

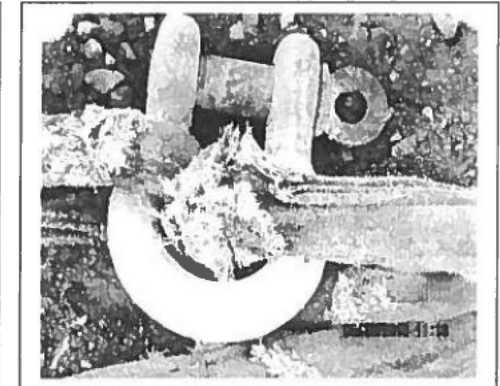
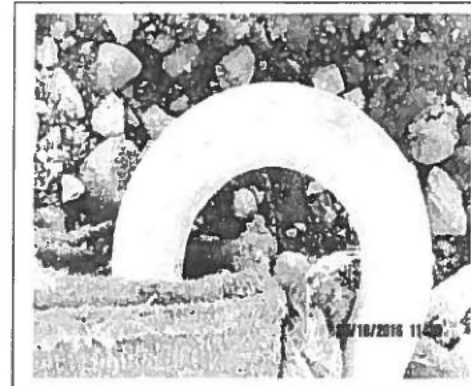
4"x20' Synthetic Strap Working Load Limit



8 Shackle that was attached to the bucket of the excavator.
Copperhead WLL25T CA1 -1/34A



2, 4, & 6 Shackle that was attached from the basket hitch strap (1) and between straps (3), (5), & (7). Crosby WLL 17T 1/12, degrees



Wallace, Debbie - OSHA

From: [REDACTED] 7C
Sent: Thursday, May 19, 2016 1:42 PM
To: [REDACTED] Lambert, Richard - OSHA; [REDACTED] 7C Lescallett, Gary - OSHA; [REDACTED] 7C
Cc: [REDACTED] Wallace, Debbie - OSHA
Subject: Asst. Secretary's letter for Jason Jolly
Attachments: Condolence Asst Secy for Mr. 2016 Jason Jolly.doc

Two employees were attempting to remove a KOMATSO PC 350 Hydraulic Excavator that was submerged deep inside the muddy ground of a landfill. Employee #1 was operating a KOMATSO dozer model D65EX-15EO using 3 separate 16 x 4 Nylon straps attached to a 1 ½ Crosby shackles that was attached to the excavator causing one shackle to fly into the back window of a dozer cab striking the employee #1 seat.

Next of Kin ID Ex. 7C

7C

Please accept my heartfelt condolences on the tragic death of your son, Jason Jolly. We deeply regret the loss of his life.

Please be assured that the Occupational Safety and Health Administration (OSHA) is investigating the circumstances surrounding Mr. Jolly's death. We realize that the results of this investigation are very important to you, so we will let you know about our findings as soon as the investigation is completed.

We are committed to preventing injuries and illnesses on the job. Given our mission of providing safer workplaces, we understand that each worker's death is a personal loss and tragedy.

Since your son's death occurred in Ohio, which is part of OSHA's Region V, our investigators from the region will be handling the investigation. If you have any questions about the investigation (ref: OSHA Inspection No. 1148200, or any information you think might be helpful, please do not hesitate to contact Ken E. Montgomery, Area Director, at the following address:

USDOL/OSHA
36 Triangle Park Drive
Cincinnati Ohio 45246
Phone: (513) 841-4132
Fax: (513) 841-4144

Again, please accept my sincere sympathy and regret for your loss. If OSHA can be of any assistance to you, your family, or friends, please do not hesitate to contact us.

Sincerely,

U.S. Department of Labor

Occupational Safety and Health Administration
Cincinnati Area Office
36 Triangle Park Drive
Cincinnati, OH 45246-3411
(513) 841-4132



May 19, 2016

Next of Kin ID; Ex. 7C

7C

Please accept our sincerest sympathy in the death of Mr. Jason Jolly. We deeply regret the loss of your son in the recent workplace accident.

We wanted you to know that the Occupational Safety and Health Administration (OSHA) is investigating the circumstances surrounding Mr. Jolly's death. We will be in touch to let you know about our findings when our investigation is complete.

Enclosed is some information about OSHA fatality investigations. If you believe you or another family member or friend may have information concerning your son's death, please contact us so that we can discuss this with you.

If you have any questions about our investigation or any of the information enclosed, please contact me:

Ken E. Montgomery
USDOL/OSHA
36 Triangle Park Drive
Cincinnati, Ohio 45246
Telephone: 513-841-4132

Again, please accept our heartfelt condolences, and please let us know if we can be of any assistance to you, your family or friends.

Sincerely,


Ken E. Montgomery,
Area Director

Enclosure

OSHA Fatality Investigations

The Occupational Safety and Health Administration (OSHA) investigates workplace fatalities and catastrophes resulting in the hospitalization of three or more workers. Employers must report these incidents to OSHA within eight hours.

OSHA inspects the worksites where these tragedies have occurred to determine whether a violation of OSHA safety and health standards related to the accident occurred and what effect the alleged violation had on the accident. If OSHA finds that the employer violated safety and health standards, the agency may issue citations and seek civil penalties against the employer.

OSHA is unable to release full details on its inspection findings until the investigation is over, any resulting litigation is completed, and the case is closed. This process may take years. In an effort to keep the families of deceased workers apprised of developments during an investigation, OSHA sends them copies of citations, appeal letters, and the results of any informal settlements as soon as the document is issued.

Once any resulting legal actions are completed and OSHA is able to release the portions of the investigation file normally subject to release under the Freedom of Information Act, this information will be provided to family members, **without charge**, upon written or oral request.

U.S. Department of Labor

Occupational Safety and Health Administration
Cincinnati Area Office
36 Triangle Park Drive
Cincinnati, OH 45246-3411
(513) 841-4132



May 19, 2016

Next of Kin ID; Ex. 7C

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USDOL/OSHA
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Cincinnati, Ohio 45246
Telephone: 513-841-4132

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Wallace, Debbie - OSHA

From: Wallace, Debbie - OSHA
Sent: Thursday, May 19, 2016 12:14 PM
To: [REDACTED] 7C
Subject: Headwaters Plant Services, Inc. Fatality
Attachments: Headwaters_Plant_Services_Fatality Documents.pdf

[REDACTED] 7C

I have attached the OSHA1, 170 & 36. Let me know if anything additional is needed.

Thanks Debbie

Debbie Wallace
Assistant Area Director
Cincinnati Area Office
513-841-4132

Establishment Name	Headwaters Plant Services, Inc.	CSHO ID; Ex. 7C
--------------------	--	------------------------

Type Activity	ACTIVITY #		CSHO ID
Employer Referral	1092748		7C

[illegible]

Fatality and Severe Injury/Illness Intake Form

Admin Information

CSHO ID; Ex. 7C

AO staff person completing this form:

First Name:	7C
Last Name:	
Title:	CSHO
Date Incident Was Reported:	May 17, 2016 (reported to AD Ken Montgomery)
Incident Number:	
OIS UPA number:	1092748

A. First, I'll need some PRELIMINARY INFORMATION.

1. Are you calling to report an incident involving a: (select all that apply)?	<input checked="" type="checkbox"/> Fatality <input checked="" type="checkbox"/> In-patient hospitalization <input type="checkbox"/> Amputation <input type="checkbox"/> Loss of an eye
2. How many workers died, were injured, and/or became ill?	One Fatality
3. What is your:	a. First Name: John b. Last Name: Miller c. Title: Safety & Environmental Health Manager d. Phone number: 801-949-4409 e. Fax number: f. Email address: jmillar@headwaters.com g. Employer: Do you work for the same employer as that of the injured worker? <input checked="" type="radio"/> Yes <input type="radio"/> No
4. When did the incident happen?	Date and time: May 17, 2016 @ 6 p.m.
5. Where did it happen?	a. What is the business name of the location, if there is one: Miami Fort Station Lawrenceburg Landfill. b. Location street address: 11021 Brower Rd. c. City: North Bend d. State: OH e. Zip code: 45052
6. What happened?	A Komatsu Bulldozer was being used by the victim to pull an excavator out of pit, when the tow strap let go and the strap and tackle swung behind the bulldozer and into the cab, striking the back of the victim's seat.

B. Now I'm going to ask you some QUESTIONS ABOUT EACH WORKER who died, was injured, and/or became ill as a result of the incident (i.e., if there are several, start with the most serious).

Worker 1

7. First Name:	Jason
8. Last Name:	Jolly
9. Age:	39
10. Gender:	<input checked="" type="radio"/> Male <input type="radio"/> Female
11. Was the injured worker working as a:	<input checked="" type="radio"/> Regular employee <input type="radio"/> Temporary worker <input type="radio"/> Contractor <input type="radio"/> Other Description
12. What part(s) of the worker's body were affected?	Back
13. What resulted for this worker: (select all that apply)	<input checked="" type="checkbox"/> fatality <input checked="" type="checkbox"/> In-patient hospitalization <input type="checkbox"/> amputation <input type="checkbox"/> Eye <input type="checkbox"/> Other: Description

C. Now I'm going to ask you some QUESTIONS ABOUT THE EMPLOYER / WORKPLACE for each worker who died, was injured, and/or became ill as a result of the incident.

Worker 1:

14. Name of worker's employer:	Headwaters Plant Services, Inc.
15. Employer's street address:	10701 S. River Front
16. City:	South Jordan
17. State:	UT
18. Zip code:	84095
19. First name of employer contact person:	John
20. Last name:	Miller
21. Phone number:	801-949-4409
22. Email address:	jmiller@headwaters.com
23. What industry is the employer in (e.g., construction, manufacturing, transportation):	remediation
24. How many people work at the injured worker's workplace?:	3
25. Is there an employee representative or a union at the workplace?	<input type="radio"/> Yes <input checked="" type="radio"/> No

D. Finally, I'm going to ask you some QUESTIONS RELATED TO THE INCIDENT that resulted in the death, injury, and/or illness of workers?

Worker 1:

26. What is the affected worker's job/job title?	Bulldozer operator
27. What does the affected worker do at the jobsite?	Operating a bulldozer
28. What was the affected worker doing just before s/he died or became injured ill?	Trying to pull a excavator out of a pit
29. What tools, equipment, or materials was s/he using?	Bulldozer
30. What directly caused the harm to the affected worker?	Tow strap & tackle
31. Is the hazard that directly caused the harm to the affected worker still in the workplace?	<input type="radio"/> <input checked="" type="radio"/>
32. Has something like this happened before in this workplace, or almost happened?	<input type="radio"/> <input checked="" type="radio"/>

Thank you. That concludes my questions. Is there anything else you'd like to report about this incident?

AO Admin Field: Use the text box below to add any comments about the incident intake:

Next of Kin ID; Ex. 7C

Victim: Jason Jolly, DOB: 12/15/1977

7C

Man killed in machinery accident in Miami Township



Fatima Hussein, fhusssein@enquirer.com

5:21 a.m. EDT May 18, 2016



(Photo: stock photo)

A man was killed Tuesday in an accident at a Miami Township landfill.

Emergency crews were called to a construction accident that occurred at Miami Fort Station Lawrenceburg Landfill at 2602 Lawrenceburg Road at 7:45 pm.

A Komat'su D65 Bulldozer was being operated by Jason Jolly, 38 from Ewing, Kentucky, who was attempting to pull an excavator out of a pit with a tow strap, according to the Hamilton County Sheriff's Office.

The tow strap broke, causing the rope to wrap around the bulldozer and strike Jolly.

Miami Township Fire Department and University Of Cincinnati Air Care were called to the scene where Jolly was pronounced dead.

This incident remains under investigation by the Hamilton County Sheriff's Traffic Safety Unit.

Read or Share this story: <http://cin.ci/27xKdey>

APR 8
Month, day, year

MOTHER
FICHO
State 21
Age 19

SOCIAL SECURITY SUCKS

Born Before 1969? You can get an extra \$4,098 monthly with this...

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YOUR BUS

FINANCE begins here

Corporation Details

http://www5.sos.state.nh.us/orders/f?n=100.19.112410551401112_XIO.10.010_71257.712

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Headwaters Plant Services is there every step of the way to help our clients find and implement the optimal strategies for handling site services issues.

HPS is the largest disposal contractor in United States for Coal Combustion Residuals (CCRs). We have over 30 years' experience at over 100 utility sites handling all types of CCRs, plus other service projects such as coal and limestone handling. We are not a local contractor that sidelines in CCR handling or disposal. We provide plant services as our core business.

Headwaters Plant Services provides a full suite of services for our utility and industrial clients. The statistics speak for themselves:

- On-going projects at 25 utility and industrial locations
- Under contract to dispose of more than 15 million tons of CCR annually
- Operate and maintain Flue Gas Desulphurization dewatering plants
- Construct new or expand existing landfills meeting any and all regulatory requirements

Headwaters Plant Services also offers unique insight when planning for the future. No other company possesses the historical perspective, national scale, operating experience and political and regulatory expertise that reside within the company. There is no better partner to assist you in when it comes to planning your byproduct management.

Headwaters Plant Services is closely affiliated with America's largest coal ash marketer, Headwaters Resources. Visit them at www.flyash.com.

HPS - New Name, Decades of Experience

Coordinates: 39°06′56″N 84°48′18″W﻿ / ﻿

Miami Fort Power Station

From Wikipedia, the free encyclopedia

The **Miami Fort Generating Station**, like another Ohio station (Beckjord Generating Station) is a dual-fuel power generating facility. It is a major coal-fired electrical power station, supplemented with a small oil-fired facility.^[1] Miami Fort is located two miles east of Lawrenceburg, Indiana, immediately north-east of the tripoint of Indiana, Ohio, and Kentucky, on the Ohio territory. Miami Fort Station is named for the nearby Miami Fort (not to be confused with Fort Miami in the same state). Miami Fort Generating Station is one of the two coal power plants near Lawrenceburg, Indiana, the other being Tanner's Creek Generating Station.

Contents

- 1 Units and ownership
- 2 Environmental impact
- 3 References
- 4 External links and photos

Units and ownership

Miami Fort Generating Station, North Bend, OH

	Combined Total	Coal-Fired Facilities	Oil-Fired Facilities
Units	7	3	4
Aggregate Capacity	1,378 MWe	1,243 MWe	78 MWe
Duke Energy Ownership	800 MWe (60.5%)	720 MWe (57.9%)	78 MWe (100%)

Dayton Power & Light owns the remaining share of ownership.

Environmental impact

Miami Fort Power Station



Location of Miami Fort Power Station in Ohio

Country	United States
Location	Miami Township, Hamilton County, near North Bend, Ohio
Coordinates	39°06′56″N 84°48′18″W﻿ / ﻿
Status	Active
Commission date	Coal unit 5: December, 1949 Coal unit 6: November, 1960 Coal unit 7: May, 1975 Coal unit 8: February, 1978 Oil unit GT3: July, 1971 Oil unit GT4: August, 1971 Oil unit GT5: September, 1971 Oil unit GT6: October, 1971
Owner(s)	Duke Energy

Thermal power station

Primary fuel	Bituminous coal, distillate fuel oil
Type	Steam turbine (coal), gas turbine (oil)

With its oldest unit dating back to late 1940s, the plant was ranked 36th on the United States list of dirtiest power plants in terms of sulphur dioxide emissions per megawatt-hour of electrical energy produced in 2006. It ^[2]

Cooling source	Ohio River, closed-cycle cooling tower
Power generation	
Nameplate capacity	1,321 MWe

References

- "Existing Electric Generating Units in the United States, 2006" (Excel). Energy Information Administration, U.S. Department of Energy. 2006. Retrieved July 14, 2008.
- mineownwiener

External links and photos

- Duke Energy Miami Fort (Oil) (<http://www.duke-energy.com/power-plants/wholesale/miami-fort-oil.asp>)
- Duke Energy Miami Fort (Coal) (<http://www.duke-energy.com/power-plants/wholesale/miami-fort-coal.asp>)
- Aerial photo of the plant (<http://static.panoramio.com/photos/original/3551964.jpg>)
- Photo of the plant (<http://static.panoramio.com/photos/original/7280731.jpg>) from a nearby I-275 bridge

Retrieved from "https://en.wikipedia.org/w/index.php?title=Miami_Fort_Power_Station&oldid=686895595"

Categories: Energy infrastructure completed in 1949 Energy infrastructure completed in 1960 Energy infrastructure completed in 1971 Energy infrastructure completed in 1975 Energy infrastructure completed in 1978 Buildings and structures in Hamilton County, Ohio Coal-fired power stations in Ohio Duke Energy

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